S. Hrg. 101-194, Pt. 3A

REPORT OF THE SENATE IMPEACHMENT TRIAL COMMITTEE ON THE ARTICLES AGAINST JUDGE ALCEE L. HASTINGS

HEARINGS

SENATE IMPEACHMENT TRIAL COMMITTEE

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

THE ARTICLES OF IMPEACHMENT AGAINST JUDGE ALCEE L. HASTINGS, A JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, FOR HIGH CRIMES AND MISDEMEANORS

EXHIBITS ADMITTED INTO EVIDENCE

Part 3A of 3 Parts

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231.....	Newspaper article, *Miami Herald*, "Stadium foes question Clark's role", July 18, 1985.	8/3/89	1966
232.....	Newspaper article, *Miami Herald*, "Dade pays $5 million to finish legal battle", June 22, 1985.	8/3/89	1967
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3.....	Testimony of William Dredge before Investigating Committee, May 23, 1985.	7/11/89	2149
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10.....	Teletype from Special Agent Murphy to Director, September 4, 1981.	7/13/89	2360
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15.....	Teletype from Special Agent Murphy to Director, August 26, 1981.	7/13/89	2389
17.....	Teletype from Special Agent Murphy to Director, July 23, 1981.	7/13/89	2392
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38	Handwritten summary by Jeffery Miller of supplemental motions filed by parties, *Romano*.	7/17/89	2486
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164.....	Transcript, *U.S.* v. *Borders & Hastings*, Hearing on Defendant's Pretrial Motions.	8/3/89	3187
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Activities of September 1981

EXHIBIT 16 HOUSE

Date		Event	
Tuesday, September 1		• Airline tickets for Las Vegas issued	
11:36 am	• WAB to ALH		
Wednesday, September 9			
8:53 am	• Dredge to WAB		
Thursday, September 10			
8:00 am	• WAB to Dredge		
9:35 am	• ALH to WAB (msg.)		
1:29 pm	• Dredge to WAB (re: Rico meeting)		
4:40 pm	• WAB to ALH		
5:10 pm	• ALH to WAB (msg.)		
5:34 pm	• WAB to ALH		
Friday, September 11			
9:37 pm	• ALH to WAB		
4:20 pm	• ALH to WAB (msg.)		
7:30 pm		• WAB does not take flight to Miami	
8:04 pm			• ALH arrives DCA
9:30 pm			• WAB departs DCA
10:14 pm		• ALH registers at Sheraton	
Saturday, September 12			
1:30 am			• WAB arrives MIA
8:40 am		• WAB meets Rico	
11:00 am			• WAB departs MIA for West Palm Beach
c. 1:00 p.m.		• WAB at family reunion	
1:06 pm		• WAB reserves EAL 532 to depart West Palm Beach at 4:13 pm	
3:30 pm		• WAB cancels EAL 532, reserves EAL 266 to depart Melborne at 4:35 pm	
4:39 pm		• At Melborne, WAB cancels EAL 266, reserves EAL 858 to depart Orlando, 6:06 pm	
6:02 pm		• At Orlando, WAB cancels EAL 858, reserves 664 to depart Orlando at 6:45 pm	
7:00 pm			• WAB departs Orlando
8:58 pm			• WAB arrives BWI
after 10:00 pm		• WAB at Sheraton	
Prior to September 16		• Reservation for two	
Wednesday, September 16			
7:45 pm		• ALH and Thompson arrive Fontainebleau	
pm		• WAB at fight, Las Vegas	
Friday, September 18			
8:00 pm			• WAB and Patty arrive DCA
9:20 pm			• WAB departs DCA
Saturday, September 19			
10:00 am		• WAB meets Rico	
September 20 or 21	• WAB and ALH talk		

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 16

Call Placed between telephones of identified persons. Airline flight

Activities of October 1981

Date		Event	
Friday, October 2			
3:11 pm	• Rico to WAB		
4:50 pm	• WAB to ALH chambers		
Sunday, October 4			
9:38 am	• Rico to WAB		
pm	• WAB to ALH (message)		
Monday, October 5			
am		• ALH tells Miller "finish Romano order today"	
4:22 pm	• Rico to WAB (order out "today or first thing in the morning")		
5:12 pm	• ALH to WAB (re: letters for "Hemp")		
Tuesday, October 6		• Romano order mailed special delivery	
Wednesday, October 7			
12:19 pm	• Rico to WAB ("it went out yesterday")		
7:38 pm	• WAB to Rico		
Thursday, October 8			
9:27 am	• ALH to WAB		
Friday, October 9			
10:40 am			• WAB picks up ALH at DCA
am		• ALH with WAB	
11:46 am	• WAB to Rico		
12:40 pm		• WAB arrested	
c. 2:45 pm	• Murphy to Shorter from WAB's office		
c. 2:45 pm	• Shorter to Pride		
pm		• Pride tells ALH about WAB's arrest	
2:50 pm		• FBI arrives to interview ALH staff	
2:50 to 3:00 pm		• FBI arrives to interview P. Williams	
4:37 pm	• At BWI: ALH to mother		
4:43 pm	• At BWI: ALH to mother		
5:06 pm	• At BWI: ALH to P. Williams		
5:07 pm	• At BWI: P. Williams to ALH		
5:22 pm	• At BWI: P. Williams to ALH from pay phone		
5:24 pm	• At BWI: ALH to P. Williams at pay phone		
6:30 pm			• ALH scheduled to depart BWI
8:38 pm			• ALH scheduled to arrive Ft. Lauderdale
c. Midnight		• FBI interviews ALH	
Monday, October 12			
9:39 pm	• ALH to WAB		

Call Placed between telephones of identified persons. Airline flight.

CRIMINAL DOCKET - U.S. District Court

53C | 1 | 3C21

ROMANO, THOMAS

78-00364-C

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
18:1962(c) & 18:1963 & 2	Did wilfully conduct and participate in racketeering activities of an enterprise affecting interstate commerce. Cts 1,6	2
18:1341&18:2	Did devise scheme to defraud and obtain money Cts 2, 12	2
18:1341&18:2	Did use the U.S. Mail to effect scheme to defraud. Cts. 3,5	2
18:1343&18:2	Did use wire communications to effect scheme to defraud. Cts. 4,8,9,10,13	5

II. KEY DATES & INTERVALS

ARREST or: 11-28-78

ARRAIGNMENT: 11-29-78

11-29-78

MAGISTRATE

U.S. Attorney or Asst.

Atlee Wampler, Spec. U.S. Atty.

ATTORNEYS

Joseph A. Varon, Esq.
2432 Hollywood Blvd.
Hollywood, Fla. 33020

Marshall C. Curran, Jr
Spear, Demschle & Curra
3554 North Federal High
Ft. Lauderdale, FL 333C
Phone: 776-8550-Broward
943-0928-Dade

INDEX

DATE	PROCEEDINGS
	18:1343 & 18:2 Did devise scheme to defraud and obtain money. Ct. 7 — 1
	18:664 & 18:2 Did embezzle and convert to own use Employees Benefit Plan monies. Cts 11, 14. — 2
	18:1962(c) & 18:1963 & 2 Did invest income derived from racketeering activities in an enterprise who's activities affecte interstate commerce. Ct. 15 — 1
	26:7206(1) Did file a fraudulent income tax form 1040. Cts 16,18 — 2
	26:7206(1) Did file a fraudulent income tax form 1045. Ct.20. — 1
12/30/80	DC & CCA (both Defts) paid
12-30-80	Appearance Bond in amt $100,000 with 10% deposited with Clerk to be deposited in Registry $10,000.00 by Lovina Ruth Romano.

FORM AO-256

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS EXHIBIT 2

EXHIBIT 2 HOUSE

CRIMINAL DOCKET - U.S. District Court

530 1 3C21

ROMANO, FRANK

11 28

78-00364-C

U.S. TITLE/SECTION	OFFENSES CHARGED	CRIMINAL COUNTS
18:1962(c) & 18:1963& 18:2	Did wilfully conduct and participate in racketeering activities of an enterprise affecting interstate commerce. Cts 1,6	2
18:1341&18:2	Did devise scheme to defraud and obtain money. Cts. 2,12	2
18:1341&18:2	Did use the U.S. Mail to effect scheme to defraud. Cts. 3,5	2
18:1343 & 18:2	Did use wire communications to effect scheme to defraud. Cts.4,8,9,10,13	5

H. KEY DATES & INTERVALS

ARREST or U.S. Custody Began

Summons Served

First Appearance

Appeared on Writ

INDICTMENT 11-28-78

ARRAIGNMENT 11-29-78 11-29-78

TRIAL

MAGISTRATE

	DATE	INITIALING
Search Warrant Issued		
Search Warrant Return		
Summons Issued		
Summons Served		
Arrest Warrant Issued		
COMPLAINT		
OFFENSE (As Complained)		

INITIAL APPEARANCE DATE

PRELIMINARY EXAMINATION Date Scheduled

REMOVAL HEARING Date Held

WAIVED NOT WAIVED

INTERVENING INDICTMENT

Tape Number

INITIALING

OUTCOME

HELD FOR GJ OR OTHER CHARGE IN THIS DISTRICT

HELD FOR GJ OR OTHER CHARGE IN DISTRICT OF

U.S. Attorney or Asst.

Atlee Wampler, Spec. U.S. Atty.

ATTORNEYS Defendant: CJA Ret. Waived Self Name / Other PD

Marshall G. Curran, Jr.
Spear, Deuschle & Curran, P.A.
5534 North Federal Highway
Ft. Lauderdale, FL 33308

NEAL R. SONNETT
200 S.E. 1st. St
Miami, Fl. 331
358-7477

DATE	DOCUMENT NO.	PROCEEDINGS	CUMULATIVE
	18:1343 & 18:2	Did devise scheme to defraud and obtain money. Ct. 7.	1
	18:644 & 18:2	Did embezzle and convert to own use Employees Benefit Plan monies.Cts. 11,14.	2
	18:1962(c) & 18:1963 &18:2	Did invest income derived from racketeering activities in an enterprise who's activities affected interstate commerce. Ct. 15.	1
	26:7206(1)	Did file a fraudulent income tax form 1040. Cts. 17, 19.	2
	26:7206(1)	Did file a fraudulent income tax form 1045. Ct.21.	1
12-30-80		Appearance Bond posted in amt $100,000 with 10% deposited ($10,000.00) with the Clerk to be placed in the Registry by Lovina Ruth Romano.	

FORM AO-256

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW, IN SECTION V, ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE 1978	(DOCUMENT NO.)	IV. PROCEEDINGS (continued) PAGE TWO	V. EXCLUDABLE DELAY (h)	(h)	(h)
NOV.	28	INDICTMENT RETURNED AT MIAMI, FLORIDA. 1		1-36	
	28	BOTH DEFTS: ORDER: Defts shall be enjoined and restrained from selling, transferring, assigning, pledging or in any other way disposing of any legal or equitable interest which defts have in the 4300 Rock Island Rd. Corp., Sean Inn, Inc. and Romano Brothers Ltd. Further ORDERED that this Order is subject to modification by the court upon written application. Order is not intended to prevent defts from engaging in ordinary course of business. Notice of the entry of this Order shall be deemed satisfied by mailing a copy of this Order by certified mail return receipt requested. (11-28-78-WMH) MR 178 2		37-38	
	29	BOTH DEFTS: Motion for restraining order and other relief pursuant to 18:1963. 3		39-40	
	29	BOTH DEFTS: Memorandum of law in support of motion for restraining order. 4		41-42	
	30	BOTH DEFTS: Notice of Appearance of William A. Meadows, Esq. as counsel for defts. 5		43	
	30	ROMANO F: ORDER: Deft is hereby required to execute the following Type of appearance bond. Personal Recognizance in amt of $25,000. No Spec. Cond. Set. (11-29-78-PEP) MR 178 6		44	
	30	ROMANO F: Appearance Bond posted on 11-29-78 in amt of $25,000 Personal Surety. Deft Address: 500 Three Island Blvd. Hallandale 33009, PH 458-4720. Approved by Mag. Palermo. 7		45-46	
	30	ROMANO F: ARRAIGNED 11-29-78, Plea- Not Guilty, Trial date to be set. 10 days to file def. motions. 8		47	
	30	ROMANO T: ORDER: Deft is hereby required to execute the following type fo appearance bond. Personal Recognizance in amt of $25,000. No Spec. Cond. Set. (11-29-78-PEP) MR 178 9		48	
	30	ROMANO T: Appearance Bond posted on 11-29-78 in amt of $25,000 Personal Surety. Deft Address: 1380 S.Ocean Dr. Hallandale Fla. 33009. PH 454-5900). Approved by Mag. Palermo. 10		49-50	
	30	ROMANO T: ARRAIGNED 11-29-78, Plea - Not Guilty, Trial date to be set. 10 days to file motions. 11		51	
DEC	5	BOTH DEFTS: Motion to amend conditions of bond. 12		52	
	5	BOTH DEFTS: ORDER: Motion to amend conditions of bond GRANTED. Defendant's allowed unlimited travel throughout the United States, further ordered United States of American shall be substituted for Southern District of Florida. (12/4/78-PEP) MR #178. 13		53	
	6	BOTH DEFTS: Standing discovery order. (11/29/78-PEP) 14		54-56	
	7	BOTH DEFTS: ORDER: For pretrial conference to be held 12/26/78 at 9:00AM. Trial to be held at 9:30AM for two-week period commencing 1/2/79. Calendar call 12/7/78-WMH) MR #178. 15		57	

CONTINUED

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW, IN SECTION V, ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h)

DATE 1978		(DOCUMENT NO.)	IV. PROCEEDINGS (Continued) PAGE TWO	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)	(e)
DEC	7	THOMAS ROMANO:	Motion for extension of time within which to file motions. 16		58-59			
	7	FRANK ROMANO:	Memorandum of law in support of motion for extension of time. 17		60			
	7	FRANK ROMANO:	Motion for extension of time to file motions. 18		61			
	15	BOTH DEFTS:	ORDER: Defts Motion for extension of time to file moitons is GRANTED. Defts have until 1-18-79 to file. (12-15-78-PRP) MR 179 19		62			
	26	ROMANO T:	Notice of Appearance of Joseph A. Varon, as counsel for deft. 20		63			
1979								
JAN	3	BOTH DEFTS:	ORDER: Substituting Joseph Varon as counsel for both defendants and discharging William A Meadows and Robert C. Josefsberg. (1/3/79-WMH) MR #L79. 21		64			
	5	BOTH DEFTS:	ORDER for pre-trial conference on 4/17/79 at 9:00 AM. (1/5/79-WMH). 22		65			
	18	BOTH DEFTS:	Motion To Dismiss Indictment.(defts) 23		66-70			
	18	BOTH DEFTS:	Motion For Govt Agents To Retain Rough Notes And Memos.(deft) 24		71-72			
	18	BOTH DEFTS:	Motion For Discolsure of Existence of Informer. (defts) 25		73-74			
	18	BOTH DEFTS:	MEMO. Of Authorities On Behalf Of Defts Thomas and Frank Romanoln Support of Def. Pleadings. (defts) 26		75-78			
	18	BOTH DEFTS:	Cert. of compliance on behalf of defts.(defts) 27		79-80			
	31	BOTH DEFTS:	Govt's Response To Defts' Motion To Dismiss Indictment.(govt) 28		81-86			
FEB	1	BOTH DEFTS:	ORDER: 1). Defts Motion for govt agents to retain rough notes is GRANTED. 2). Motion for disclosure of existence of informers is DENIED. 3. Defts Motion to dismiss the Indictment is DENIED.(1-31-79-PRP) MR 179 29		87-88			
April	17	BOTH DEFTS:	Pre-trial conf. held. —					
May	10	ROMANO, T: ROMANO, F:	Pre-trial conf. 7/24/79 @9AM; trial @9:30AM for two week period 7/30/79; calendar call 7/26/79 @1:30PM. 30		89 90-91			
	11	ROMANO, T: ROMANO, F:	Motion for leave to travel. (defts). 31					
	18	ROMANO, T: ROMANO, F:	ORDER: Defts' motion to travel outside continental U.S. GRANTED. defts to travel to Bahamas spring & summer 1979.(5/18/79-PRP)M5/21/79. 32		92			
JUNE	1	BOTH DEFTS:	ORDER: Pre-Trial Conf. at 9:00 A.M. on 9-4-79. Trial set for 9:30 A.M. on 2 wk period of 9-10-79. Cal. call at 1:30 P.M. on 9-6-79. 6-1-79-WMH 33		93			
	4	BOTH DEFTS:	Motion for continuance of trial. (dft) 34		94-96			

**** CONTINUED ****

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs ROMANO, THOMAS ET AL

78-364-CR-
Yr. | Docket

DATE 1979		PROCEEDINGS (continued) (Document No.)	V. EXCLUDABL (a)	(b)
AUG	20	ROMANO: Speedy Trial Status Report And Motion For Determination Of Excludable Time.(govt) 35		Included & Excl
	24	ROMANO T & F: Notice of Doc. ret'd: Motion For Continuance, Motion To Withdraw As Counsel of Record For Defts.(defts) 36		97
	24	ROMANO T.& F: Certifcate of Compliance.(deft) 37		98-99
	29	ROMANO T. & F: Motion For Continuance(of trial)(defts) 38		
	29	ROMANO T. &.F: Motion To Withdraw As Counsel of Record For Defts.(defts) 39		100-102
OCT	10	ROMANO T & F.: ORDER: Pre- Trial conf. to be held on 12-27-79 at 9:30 A.M. Trial to be held at 9:30 A.M. on 2 wk Period of 12-31-79. Cal. call at 9:00 A.M. on 12-27-79.(10-10-79-MMH) 40		103-105
	19	ROMANO T.& F.: Notice of Appearance (Marshall G. Curran,Jr.) & Waiver of Speedy Trial. 41		106
	24	BOTH DEFTS: ORDER: Transferring case to calendar of Judge Alcee Hastings. (10/24/79-MMH). M10/26/79. 42		107-108
NOV.	5	BOTH DEFTS: Letter to Mr. Curran from Richard B. Russell Re: Information available under Standing Discovery Order. copy to file. 43		109-110
	28	DEFTS: Notice of p/t conf 1/2/80 @9 A.M. trial set for two-week period 1/7/80 @9:30 A.M.; calendar call @9:A.M. 1/2/80. 44		111
December	3	DEFTS: Copy of letter from govt re additional discovery. 45		112
	7	ROMANO, T. & F: Rescheduled P/T conference at 9:30 A. M. on 2/4/80. 46		113
	31	ROMANO: Notice of filing of preliminary pretrial stipulation. 47		114-116
1980 JAN	21	BOTH DEFTS: ORDER: Trial will be held on 2-11-80 at 9:30 A.M. Cal. call on 2-7-80 at 1:30 P.M. All pretrial stipulation to be filed no later than 3-1-80.(1-21-80-ALH)M-1-22-80. 48		117-118
Feb.	6	BOTH DEFTS: Re-notice of criminal jury trial two-week period beginning 6/2/80 at 9:30 A. M. P/T stipulation to be filed no later than 5/19/80. 49		119
	6	BOTH DEFTS: Motion for a Judicial Inquiry concerning the defendants' rights to conflict-free assistance of counsel. (gov't.) 50		120
	6	BOTH DEFTS: Memorandum of law in Support of a Motion for a Judicial Inquiry concerning the defendants' rights to conflict-free assistance of counsel. 51		121-126
		52		127-129
	7	BOTH DEFTS: Stipulation. 53		130-131
	7	BOTH DEFTS: Supplemental Stipulation. 54		132
	7	BOTH DEFTS: Waiver of Speedy Trial.		133-139
May	9	ALL DEFTS: Defts proposed questions to jurors. 55		140
JUNE	2	BOTH DEFTS: Motion For Continuance. (of trial) 56		141-142
	4	BOTH DEFTS: Supplement to Defts' Motion for Continuance. 57		
	9	ROMANO, T: Letter from James M. Deichert, U. S. Dept. of Justice to Jim C. Hirschman, M. D., dated 6/3/80 re: examination of deft. 58		143-149

Continued

AO-257

Interval (see Section II) | Start Date | End Date

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1980	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
cont.					
Jul 9	ROMANO: ORDER: 1. June 2, 1980 trial date shall be postponed to 8/22/80 @ 9:30 A.M. in Miami, Fla. All pre-trial orders remain in full force & effect. 2. Parties shall be permitted without necessity of motioning court to have deft examined by physicians of their choosing to ascertain whether deft is ready to attend rescheduled trial. 3. If necessary, all medical evaluations of the deft shall be submitted no later than 7/15/80 . (7/1/80-ALH). M-7/15/80. 59		150		
Aug 22	ROMANO: Notice of pre-trial con. set for 9/4/80 @ 11:00 A.M. before the Hon ALH. 60		151		
OCT. 17	BOTH DEFTS: Notice of pre-trial con. set for 10/22/80 @ 3:00 PM before the Hon. ALH 61		152		
Nov. 7	BOTH DEFTS: Letter from James M. Deichert to Clerk, U.S. Dist. Court, dated 11/3/80. RE: Enclosed copies of govt's trial brief. 62		153		
7	BOTH DEFTS: Trial brief of the U.S. 63		154-219		
10	BOTH DEFTS: Motion for an Order continuing the Return Date of trial subpoenas. (gov't.) 64		220-221		
28	BOTH DEFTS: Govt's proposed voir dire questions. (govt) 65		222-231		
28	BOTH DEFTS: Govts memo of law on the use of summary charts & witnesses & the use of an expert witness (govt) 66		232-237		
11	BOTH DEFTS: ORDER: Govt may contact witness and instruct them that subpoenas issued from 6-1-80 are continued to 12-1-80, and that witnesses shall remain on call during 2 wk period beginning 12-1-80 and remain under subpoena power until the conclusion of trial. (11-11-80-ALH)M-12-1-80 67		238		
DEC. 2	BOTH DEFTS: List of govt interview notes, reports of interviews & GJ testimony. (govt) 68		239-243		
2	BOTH DEFTS: Defts index to exhibits. (deft) 69		244-247		
8	BOTH DEFTS: Stip. (deft & govt) 70		248-249		
8	BOTH DEFTS: Introduction, subjective outline of factual circumstances of the cts. & memo of law re elements of proof required. (deft) 71		250-264		
9	BOTH DEFTS: Govt's proposed jury instructions. (govt) 72		265-315		
18	ROMANO T : ORDER: (ALH) Michael J. Lerner, M.D. is authorized to conduct a physical exam. of deft. Doctors Peter Irving & Paul L. Rodensky provided court with deft's medical history. Dr. Lerner be compensated by the U.S. for his services. (EOD/M-12-22-80 73		316-317		
19	BOTH DEFTS: GOVT'S Proposed Jury Instruction. 74		318-324		
19	ROMANO T: ORDER(ALH) Deft be deposed by counsel at the Hollywood Med. Cent on 12-20-80 at 9:00 A.M. All costs to be paid by US. The cost will not be taxable against defts. (EOD-M-12-29-80) 75		325		

AO-257 (CONTINUED) Interval (per Section III) | Start Date / End Date | Ltr. Code | Total Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs

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V. EXCLUDAB
(a) | (b)

DATE 1980	(Document No.)	PROCEEDINGS (continued)			
DEC. 23	BOTH DEFTS:	74A Jury Instructions.	TRW		XX-367
30	BOTH DEFTS:	75 Notice of Appeal from verdicts of guilty & adjudication by court of guilty of each of 21 counts they were charged with in the indictment. (Copies to USCA, U.S. Atty, Ct. Rept and counsel of record).	ai		369
30	BOTH DEFTS:	76 ORDER(ALH): 1. Defts T & F Romano are ea. required to execute an app. bond with Clerk of Court in amt. of $100,000. no later than 12/31/80 at noon provided that the defts may deposit the sum of $10,000. in the registry of the Court no later than 12/30/80 @ 4:00 PM in cash or in form of such other security as found acceptable by the Court. 2. Defts shall not travel outside the territorial limits of the S. Dist of Fl. w/o express auth. of Court. (EOD/M-1/5/81) CCAP	dg		369-370
30	BOTH DEFTS:	77 WAIVER of trial by jury.(deft & govt)	dg		371
30	BOTH DEFTS:	78 MOT. for new trial & renewal of mot. for judgment of acquittal. (deft)	dg		372-376
30	ROMANO F:	79APPEARANCE bond posted in amt $100,000 Pers. Surety.	jl		377-379
1981 JAN 5	ROMANO T:	80 APPEARANCE Bond posted in amt $100,000 Pers. Surety.	jl		380-382
8	BOTH DEFTS:	81 DESIGNATION to Ct. Rep.	gc		383
16	BOTH DEFTS:	82 ORDER(ALH) Govt granted extension of time until 1-30-81 to file reply brief to mot. for new trial, and mot. for judgment of acq.(EOD-M-1-20-81) CCAP.	jl		384
DEC 2	BOTH DEFTS:--	Jury empaneled trial begins.	mc		
3	BOTH DEFTS:--	Jury trial resumes.	mc		
4	BOTH DEFTS:--	Jury trial resumes.	mc		
8	BOTH DEFTS:--	Jury trial resumes.	mc		
9	BOTH DEFTS:--	Jury trial resumes.	mc		
10	BOTH DEFTS:--	Jury trial resumes.	mc		
11	BOTH DEFTS:--	Jury trial resumes.	mc		
15	BOTH DEFTS:--	Jury trial resumes.	mc		
17	BOTH DEFTS:--	Jury trial resumes.	mc		
22	BOTH DEFTS:--	Jury trial resumes.	mc		
23	BOTH DEFTS:--	Jury trial resumed and concluded.	mc		
23	BOTH DEFTS:	83 VERDICT: GUILTY as to cts. 1-15; GUILTY as to cts. 16, 18 & 20 as to deft Thomas only and GUILTY as to cts. 17, 19 & 21 as to deft Frank only. Adj. guilty; PSI ordered. M-2/2/81.	mc		385-394

CONT.

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Interval (per Section II) | Start Over (Day) Date

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1981	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
FEB 6	84	BOTH DEPTS: GOVT's Memo. fo Law In Opposition To the Defts' Mots For New Trial And Judgment of Acq. jl		387-396		
11	85	BOTH DEPTS: ORDER(ALH) Govt is GRANTED an extension of time until 2-5-81, in which to file a reply to the mot. for a new trial, and a mot. for judgment of acq.(EOD-M-2-13-81) CCAP. jl		397		
17	86	BOTH DEPTS: MOT. of appearance of Neal R. Sonnett, Esq., as additional counsel. mp		398		
17	87	BOTH DEPTS: MOT. for permission to travel. (defts) NR mp		399-402		
20	88	BOTH DEPTS: ORDER(ALH): Louima Ruth Romano shall be enjoined & restrained from selling, transferring, assigning, pledging, leasing, encumbering, discharging, or in any other way disposing of any legal or equitable interest right claim which she has in or against Sea Inn & in $800,000. Wrap Around Purchase Money Mortgage & Purchase money mortgage deed on the Sea Inn. 2. This order is subj. to mod. by the Court upon written appl. & timely not. to the U.S. by Ms. Romano upon showing that she is aggrieved or adversely affected by this Order & desires to engage in a transaction which may violate this Order. 3. Eff. on entry of this Order All payments of principal, interest, late fees & any other monies credits, payments or set offs which may be paid, recieved, or credited to Ms. Romano on the Wrap Around Purchase Money Mortgage & Wrap Around Purcahse Money Deed be deposited by Ms. Romano with the Clerk of the Court pending final disposition of cause or further Order of this Court. 4. Not. of the entry of this Order shall be deemed satisfied by making personal ser. of copy or by mailing a copy of this Order by cert. mail, return receipt requested.(EOD/M-2/23/81) CCAP dg		403-404		
26	89	BOTH DEPTS: ORDER(ALH) Mot. for permission to travel outside S.D.of Fla. GRANTED with requirements.(EOD-M-2-27-81) CCAP. jl		405-406		
* 20	—	BOTH DEPTS: Hung jury trial resumed and concluded ruling reserved. fw				
MAR 4	90	BOTH DEPTS: TRANSCRIPT of Hearing on 2-20-81 at 9:30 A.M. before Judge Hastings in Ft. Laud. Pages 1-93 jl		Vol 4		

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Interval (see Section II) | Start Date / End Date | Ln. Code | Total Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

U. S. vs

ROMANO, THOMAS ET AL

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DATE 1981	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDAI (a)	(b)
MAR 11	91	BOTH DEFTS: RET. of Serv. (copy of restraining order serviced on Louisa R. Romano) jl		407
17	92	BOTH DEFTS: GOVT'S proposed findings of fact. mp		409-417
18	93	BOTH DEFTS: MOT. For Clarification And Modification of restraining Order. NR.___ jl		418-420
19	94	BOTH DEFTS: COPY of letter from James Deichert Spacial Atty., Dept. of Justice, to Marshall G. Curran, Jr., Esq., dated 3/4/81 re payments to be made to the district court by Louisa Ruth Romano. rmw		421-422
23	95	BOTH DEFTS: MOT. for Ext. of Time to File Post-Hearing Memo of law. NR_____ rmw		423-424
24	96	BOTH DEFTS: LETTER from Marshall G. Curran, Jr., Esq., to ALH, dated 3/16/81 re: Memo of law. rmw		425
27	97	BOTH DEFTS: ORDER: (ALH) Time for filing of defts' Post-hearing memo of law is extended for a period of ten days. (EOD/M/3/30/81) CCAP rmw		426
Apr. 5	98	BOTH DEFTS: MEMO of fact & law in opposition to forfeiture of property sought by govt. (defts) mp		427-432
7	99	BOTH DEFTS: OBJECTIONS to govt's proposed findings of fact. (deft) mp		433-435
8	100	BOTH DEFTS: MEMO in support of forfeiture. (govt). mp		436-463
9	101	BOTH DEFTS: ORDER(ALH) Clerk of Court may temp. rel. Govt exh. # 680a,683a,686a to Spec. Agent James R. White, I.R.S. for a period not to exceed 7 days. Upon photocopying exh. agent to ret. original to deputy clerk.(EOD-M-4-15-81) CCAP. jl		Unable to locate
27	102	BOTH DEFTS: ORDER of USCA-Dismissing Appeal upon Motion of Appellants. (4/23/81-CA)(Copies to Judge, U.S. Atty, Mareh. & Prob)(EOD-4/27/81-M) ai		462-463
MAY 4	103	BOTH DEFTS: MOT. of sent set for 5/11/81 @1:00 pm before Hon. ALH. mp		464
	104	BOTH DEFTS: SPEC. Verdict #1(Thomas Romano)Interest in amt $152,969.50 is declared forfeited to U.S. Spec. Verdict #2(Frank Romano) Interest in amt $152,969.50 is declared forfeited to U.S. Spec. Verdict # 3(Thomas Romano)Interest in amt $270,000.00 is declared forfeited to U.S. Spec. Verdict # 4(Frank Romano) Interest in amt $270,000.00 is declared forfeited to U.S. Spec. Verdict # 5 (Thomas Romano) Interest in amt $158,038.50 is forfeited to U.S.(CONT)		461-463

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Interval (see Section II)

Stage Conv. End Date

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1981	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
MAY 4	104	BOTH DEFTS: (Cont.) Spec. Verdit #6(Frank Romano) Interest in amt of $158,038.50 is declared forfeited to U.S.(5-4-81-ALH) jl				
4	105	BOTH DEFTS: ORDER(ALH) 1) Restraining Order of 2-20-81 is modified as follows: $6,944 00 monthly mortgage payments due mortgagor , Louima Romano shall deposit with Clark of Court those monies rec'd from mortgagor less amt of her monthly obligation 42,353.91 to Bank of Hallandale. 2) Law Firm of Bierman, Sonnett, as U.S. agent shall open an interest-bearing acct to collect all monies, credits, payments rec'd by Louima Romano on Wrap around Money Mort. Firm shall hold fundsin acc until further order this court. 3) Law Firm shall provide a quarterly acct. of account. Acct. to identify nature , source, amt . date of payment , rate of interest earned during that quarter.(EOD-M 5-7-81)CCAP. jl		464-465		
4	106	BOTH DEFTS: ORDER(ALH) 1) Thomas Romano-Judgment in amt of $422,969.50 is Granted in favor of U.S. 2)Frank Romano-Judgement in amt of $422,969.50 is Granted in favor of U.S. 3) $800,000 Wrap around Mort. to Louima Romano is hereby rescinded and set aside insofar as it effected the transfer of property and other interest of defts, to which forfeiture is directed in the Order and Judgment of Forfeiture. 4) Thomas Romano is hereby divested of $158.038.50 of right and interest in Note & Mort. he possesed in the Sea Inn of Hallandale and same is forfeitad to U.S. 6) Atty. Gen. is to seize all property and interest which has been declared forfeited to U.S. and to dispose of is as soon as commercially feasible. 7) Attys for Govt shall have rights to use and procedural methods to obtain all information as to assets and liabilities of defts.8) 15 days from date of this Order dfts shall provide Court with a full financial statement of all their assests which defts now hold or will rec during 12 months period immed. followigg date of this order. (CONT).		466-468		

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Interval Item Section III | Start Date End Date | Lv. Code | Total Days

AO 256A

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs

ROMANO, THOMAS ET AL

78-364-CR-ALH
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DATE 1981	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
MAY 4	106	BOTH DEFTS: ORDER(Cont.) 9) Restraining order of 2-20-81 as midifed by Court on 5-4-81 shall cont. to remain in full force. 10) Defts shall have 30 days from date of this Order to attempt to obtain a stay of its provisions. Absent a grant of stay from U.S.C.A. within that period, the forfeitures ordered herein will thake immed. effect upon the expiration of that time.(EOD-M-5-7-81)CCAP. jj		a		
4	107	BOTH DEFTS: FINDINGS of Fact.(5-4-81-ALH) jj		469-471		
15	108	BOTH DEFTS: DESCRIPTION Of Substituted Exhibits. (govt) jl		472-473		
22	109	BOTH DEFTS: MOT. for extension of time to submit memo.(deft's) HR mb		474-475		
22	110	ROMANO: ORDER(ALH):1)That the clerk of ct may substitute photocopies or reductions of Govt. Exhibits: 652(1),652(2),653,654,655, 656,658,659,4660, in the record for the purpose of preserving record on appeal provided that,a written description of the approximate measurements of original Govt. Exhibits be files with Ct. 2)That subsequent to the making of these substituions, clerk of Ct. may return above-described original Govt.Exhibits to Govt. counsel.(EOD/M-5/26/81) CCAP. mb		476-477		
JUNE 1	111	BOTH DEFTS: ORDER(ALH) 1)Deft shall submit any suppl. post-trial mots. and memo of law on or before 6-5-81. 2) Govt shall file its responsive pleadings on or before 6-23-81. 3) Cause set final argument & 7-6-81 at 10;00 A.M.(EOD-M 6-3-81) CCAP		478		

CONT.

Indictment (per Section III) | Start Conf. Exc. Date | Ltr. Code | Total Days

AO 256A

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1981		Document No.	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a) (b) (c) (d)
JUNE	5	112	ROMANO T & F. SUPPL. Mot For New Trial And Renewal of Mot. for Judgment of Acq. HR.___ jl	479-482
	5	113	ROMANO T. & F: MOT. For Reconsideration of Deft's opposition to order of Forfeiture. HR. jl	483-488
	8	114	ROMANO T.&F.: MEMO. of Law in Support of Suppl. Mot. Mot. For New Trial and Renewal of Mot. For Judgment of Acq. jl	489-507
	23	115	BOTH DEFTS: MOT. of Sentencing on 6-29-81 at 9:30 A.M. jl	508
	29	116	ALL DEFTS: LETTER from James M. Deichert to Hon. ALH, dated 6/25/81. RE: Enclosed law review. mp	509
	29	117	BOTH DEFTS: MEMO in opposition to reconsideration of order of forfeiture. (Govt) mp	510-519
JULY	2	118	BOTH DEFTS: RE-NOT. of Sentencing at 10:00 A.M. on 7-8-81. jl	519
June	30	119	BOTH DEFTS: GOVT'S memo of law in opposition to deft mots. for new trial & judgment of acquittal. mh	520-537
July	6	120	BOTH DEFTS: DEFTS' reply to govt's memo of law in opposition to reconsideration of order of forfeiture. mh	538-542
	7	121	BOTH DEFTS: GOVT'S supplemental letter memo of law in opposition to defts' Post-Trial mots. mh	543-545
J33 Mc	9	122	ROMANO T.: J & C: 3 yrs impr. as to ct. 1; 3 yrs impr as to cts 2 thru 16 & 18 all to run concurrent to ct. 1 pursuant to 18:4205(b)(2). Impo. of sent. of conf. w/hald and deft placed on prob. for 3 yrs as to ct 20 to commence immed. on expir. of sent. imposed in ct. 1. (7/8/81 ALH) (EOD/M-7/14/81). mc	546
J33 Mc	9	123	ROMANO F: J & C: 3 yrs impr. as to ct. 1; 3 yrs impr as to cts 2 thru 15, 17 & 19 all to run concurrent to ct. 1 pursuant to 18:4205(b)(2). Impo. of sent. of conf. w/hald and deft is placed on prob. for 3 yrs as to ct 21 to commence immed. on expir. of sent. imposed in ct 1. (7/8/81-ALH) (EOD/M-7/14/81).	547
	14	124	ROMANO F&T: NOTICE OF APPEAL by Defts from Final Order & Judgment of Forfeiture ent. 7/8/81. (Copies to USCA, U.S. Atty Marshal, Probation & all counsel of record) ai	548
	14	125	ROMANO F&T: NOTICE OF APPEAL by Defts from Final Judgment & Conviction ent.7/8/81. (Copies to USCA, U.S. Atty, Marshal Probation & all counsel of record) ai	547 Continued

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UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs

ROMANO, THOMAS

78-00364-CR-ALH
Yr. | Docket No. | Def.

DATE 1981	(Document No.)	PROCEEDINGS (continued)		V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
Oct. 6	126	BOTH DEFTS:	ORDER(ALH): ORDERED that this Court's Order and Judgment of Forfeiture entered on 5-4-81 is hereby modified as follows: 1) the $422.969.50 judgment in favor of the U. S. and against Thomas Romano, as recited in paragraph 1, is VACATED SET ASIDE. 2) The $422.969.50 judgment in favor of the U.S. and against FRANK ROMANO, as recited in paragraph 2, is hereby VACATED and SET ASIDE. The Order and judgment of forfeiture is affirmed in all other respects. (EOD/M-10-13-81) CCAP mg				
21	127	BOTH DEFTS:	TRANSC. of hearing held before Judge Hastings on 2/4/80, pages 2-6. gc		550-562		
21	128	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 2/7/80, pages 2-15. gc		See Vol 5		
21	129	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 12/8/80, pages 2-228. gc		See Vol 6		
21	130	BOTH DEFTS:	TRANSC of hearing before Judge Hastings on 12/9/80, pages 236-447. gc		See Vol 7		
21	131	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 12/11/80, pages 2-142. gc		See Vol 8		
21	132	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 12/15/80, pages 2-99. gc		See Vol 9		
21	133	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 12/17/80, pages 2-21. gc		See Vol 10		
21	134	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 12/19/80, pages 2-14. gc		See Vol 11		
21	135	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 12/22/80, pages 2-337. gc		See Vol 12		
21	136	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 12/23/80, pages 2-245. gc		See Vol 13		
21	137	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 12/29/80, pages 2-32. gc		See Vol 14		
21	138	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 12/30/80, pages 2-40. gc		See Vol 15		
21	139	BOTH DEFTS:	TRANSC. of hearing before Judge Hastings on 7/8/81, pages 2-105. gc		See Vol 16		
NOV 5	140	BOTH DEFTS:	NOTICE of Appeal by Gov't from final Order & Judgment entered 10/6/81.(cc: USCA and all counsel or record) gc		See Vol 17		
			CONTINUED		563-564		

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UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1982	(Document No.)	PROCEEDINGS (continued)		V. EXCLUDABLE DELAY (a) (b) (c) (d)
Jan 21	141	BOTH DEFTS: TRANSC. of trial before Judge Hastings on 12/2/80, pgs. 2-246.	gc	
21	142	BOTH DEFTS: TRANSC. of trial before Judge Hastings on 12/3/80, pgs. 247-517.	gc	
21	143	BOTH DEFTS: TRANSC. of trial before Judge Hastings on 12/4/80, pgs 518-686.	gc	
21	144	BOTH DEFTS: TRANSC. of trial before Judge Hastings on 12/10/80, pgs 687-882.	gc	
Feb. 19	145	BOTH DEFTS: TRANSC: of hearing held 5/11/81 before Judge Hastings, pgs. 1-18.	rd	
		CLERK'S CERTIFICATE		565

Interval (see Section (c)) | Start Date / End Date | Ltr. Code | Total Days

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the Division Initialed and Refer to Initials and Number

JMD:jbg

ORGANIZED CRIME STRIKE FORCE
Richard B. Russell Federal Building
75 Spring Street, S. W., Room 1348
Atlanta, Georgia 30303

April 23, 1981

Honorable Alcee L. Hastings
United States District Court Judge
Southern District of Florida
Post Office Box 013200
Miami, Florida 33101

Re: United States v. Romano, et al
Criminal No. 78-364-ALH

Dear Judge Hastings:

I am confirming today's telephone conversation with your chambers, in which Mr. Miller rescheduled the sentencings and final arguments on all post trial motions in the above-captioned case for May 11, 1981, at 1:00 PM, at the U. S. District Courthouse, Miami, Florida.

Respectfully,

James M. Deichert

James M. Deichert
Special Attorney
United States Department of Justice

cc: Neal R. Sonnett, Attorney
Marshall G. Curran, Attorney
George Thompson, U. S. Probation Office
Clerk, U. S. District Court, Miami

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 3

EXHIBIT
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HOUSE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 4

RECORD ON APPEAL NO. 78-364-CR-ALH

UNITED STATES OF AMERICA,
Plaintiff,

vs

THOMAS AND FRANK ROMANO,
Defendants-Appellants.

Vol 22 of 22.

EXHIBIT 4 HOUSE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE, FLORIDA

CASE NO.: 78-364-Cr-ALH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRANK ROMANO and THOMAS ROMANO,

Defendants.

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United States Courthouse,
299 East Broward Boulevard,
Fort Lauderdale, Florida,
May 11, 1981,
1:05 o'clock P.M.

The above entitled cause came on for hearing before the Honorable Alcee L. Hastings, United States District Court Judge, pursuant to notice.

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APPEARANCES:

JAMES M. DEICHERT, SPECIAL ATTORNEY,
United States Department of Justice,
appearing on behalf of the Plaintiff.

NEAL SONNETT, ESQ.,
appearing on behalf of the Defendants.

ALSO PRESENT:
Marshall Curran

REPORTED BY:

DONNA MIHALKO,
Notary Public and
Registered Professional Reporter,

Thereupon:

The following proceedings were had:

THE CLERK: All rise. District Court is now in session. The Honorable Alcee Hastings presiding.

THE COURT: All right. Please be seated. Thank you.

We're here in the matter of United States of America versus Frank Romano, being case number 78-364-Cr-ALH, and United States versus Thomas Romano, 78-364-Cr-ALH.

Mr. Deichert, welcome back to Florida. Mr. Sonnett, Mr. Curran.

We're here for final sentencing and/or disposition, and I'd appreciate very much if you would come forward with your clients, Mr. Sonnett, and I'll take them in tandem. Everything else has gone on accordingly, and so, I'll listen to the argument and elocution of mitigation on behalf of either of them, and/or aggravation on behalf of either or both of them, at the same time. Legally, we should proceed to final disposition at this time.

MR. SONNETT: Neal Sonnett on behalf of both Defendants, Thomas and Frank Romano. I've just discussed this with Mr. Deichert, and I apologized to him, as I apologize to the Court, for not bringing this

up by motion, prior to his coming down here.

THE COURT: All right, sir.

MR. SONNETT: But, I think Your Honor is aware of the general background involved in this case. I entered my appearance as additional counsel, for the purpose of handling post trial proceedings, and the appeal following the trial and conviction of the Defendants, and at one of the post trial proceedings, the forfeiture argument, I was unable to be here because I was involved in a Federal Trial in Miami.

This case, as the Court knows, is an extremely complicated one, and piecing together the file and familiarizing myself with it has been tedious.

It has come to my attention, Your Honor, that there are several important, in my view, issues that were not raised in the Motion For New Trial, or in the alternative, for Judgment of Acquittal, that I think, in fairness to the Defendants, need to be raised, and I don't mean any criticism of Mr. Curran in that respect. Everyone looks at cases from a different vantage point, but I feel compelled, under the circumstances, to ask the Court to put off sentencing, and to give me a briefing schedule, so that I can supplement the Motion For New Trial, on at least three areas that I consider to be extremely important to this Court's determination.

I don't believe that the administration of justice will be injured, in any way, by a reasonable briefing schedule, and I do believe that in the long run it may very well shorten the litigation down the road, but there are some areas that I believe are important to the Defendants, which were not raised in the Motion For New Trial, which should be addressed.

At least one of them, Your Honor, came out in a District Court opinion, United States versus Computer Sciences Corporation, just very recently. There's a great similiarity between the issues in that case and the issues in this case, at least with regards to the middle counts, seven through fourteen of this indictment, and I believe, perhaps, with regard to other counts. I think that issue needs to be briefed so that the court can make a decision, and that record can respectfully go up to the Fifth Circuit.

There is another issue that was not addressed in the Motion For New Trial, and that's a very basic issue concerning the complexity of this indictment, and whether or not the jury understood this case. And, I would point out to Your Honor, in one of the cases that is a landmark decision in its circuit, United States versus L'Hoste, that, in fact, those Defendants were convicted after the third trial, and on conclusion - or

on conviction, following the first trial, on the day of sentencing, the trial judge dismissed the indictment and reversed the conviction of the Defendants, arguing that the complexity of the case and the government's presentation made it impossible for the jury to understand what was going on.

THE COURT: I read that case and I was interested in that, but compared to this particular case, what would you do that would present anything to me, other than legal argument, to show that a jury did or did not understand the case? I'm constrained to believe that - Mr. Sonnett, that half the time most of us don't understand most cases, no matter the nature of their complexity.

What would you do that would show me that this jury didn't understand any more than another jury would, if this case were to be retried, if it were reversed?

MR. SONNETT: I'm not certain yet I can state or start to present legal argument to the Court based on, among other things, the record in L'Hoste, and the record in other cases that have been tried in the United States District Courts, for the United States, in which trial judges were constrained to reach that decision.

Second of all, I think that there is a pairing that can be made between the issue of complexity and the

issue of whether or not this case was brought in its proper forum, that is, was this a RICO case; is the government bootstrapping? Computer Sciences Corporation charges to RICO that they should not be. Were we, in fact, really dealing with a simple 664, an income tax evasion count, that perhaps should have been tried separately, and not joined together in the same trial, and is the overall effect of the way the government chose to bring the Defendants, with three separate RICO counts, with several mail fraud conspiracy counts, does that result, as a matter of law, in a case that this jury cannot be expected to understand?

There's no question in my mind, that from comments from the Court, as I understood them during the course of the trial, and from other observations, that it indicated that the jury was - at least comments from alternate jurors, indicated that the jury was having a difficult time. I can't pretend to read minds and the law says that except under the most unusual, circumstances, I cannot undermine the jurors' verdict, but I think, as a matter of law, this Court can take into consideration argument that goes to whether or not the nature of the indictment, the nature of the presentation of the case by the government, makes it such that the conviction is legally faulty, and that's exactly the result that was obtained in the L'Hoste

case, and it unfortunately only dealt with a sentencing. I happen to know a little bit more about that case, but in the procedural history, which the Court calls rigorous and repetitious, I think in the original Fifth Circuit Panel decision, they do point out that in the procedural history there was, in fact, a conviction, then there were subsequent proceedings that dealt with forfeiture aspects that were the subject matter of other litigation, but on the day of sentencing, after the first trial, the trial judge reversed the conviction of all Defendants, and the government subsequently reindicted and there were three indictments in that case.

THE COURT: I'm aware of the case, Neal, and if I were to permit what you say, I would hear all of those arguments. I'm not interested in them today, but if you say complexity is the issue that you raise, in addition to the other things that you think might be, then, I hear your argument loud and --

MR. SONNETT: There's one other -- Let me just get the other one out. Just because of time I didn't have a chance to go over this with Jim, before we came into Court.

One other area deals, in my view, with the question of the video taped deposition, which I think needs some further legal exploration, and perhaps, even in my

contemplation, a motion for an evidentuary hearing, to hear expert testimony on whether or not the Defendant was physically and mentally able to give testimony, and of course, as the Court knows, the testimony of a Defendant at a trial is crucial. Those are the three areas which were not raised in the Motion For New Trial, which I believe --

THE COURT: If you read the record, you know that there was an appropriate waiver with reference to the taking of that video testimony, and we were very careful before we, you know, took it.

MR. SONNETT: I read the transcript of that, Your Honor. I'm aware of the fact that the record does state a waiver. One of the things that I believe I may be able to show, and of course as I indicated, I have not had a chance to brief it yet or Your Honor would have my memorandum, that's why I'm asking for the additional time, I believe I may be able to show that the waiver was not knowingly or intelligently made, notwithstanding its appearance on the record, and for those reasons, those areas that I bring to the Court's attention, I think I owe it to my clients, for those three issues, and the fact, as the Court recognized at the forfeiture proceeding several months ago, that we were plowing a lot of new ground in this case, and that the Supreme

Court has not considered any of these issues, and, in fact, there's a great deal of dissension, even among Fifth Circuit Judges, as to some of them, and that a reasonable continuance to allow me to brief these matters would not be - would not thwart the administration of justice. It might, unfortunately, require Mr. Deichart to make another trip down, and I've already apologized to him for that, but I think the future of this case, in terms of its posture before the Fifth Circuit, is important enough to require that.

THE COURT: Mr. Deichart?

MR. DEICHART: Your Honor, I would - you know, with reference to Mr. Sonnett, I would oppose the application for delay. It's been five months since the verdict on this case.

Mr. Sonnett, the Motion For New Trial has been pending since then. Mr. Sonnett has been in the case for several months, and participated in the racketeering briefing matter, and, in fact, some of the argument that he raises now as to the complexity of the case and the bootstrapping argument, were previously raised in the racketeering brief.

The other matter about bootstrapping the indictment and the complexity of the RICO, those were raised in pretrial motions which were denied by the Court. The

video taped deposition argument, the Court was certainly in the best possible position to weigh the ability of the Defendant to enter a knowing and intellegent waiver, and regardless of how much briefing or additonal information was brought to your attention, I don't think you would be in any better position to rule on that, then you would be today.

The case has been delayed interminably. I respectfully request the Court to deny the motion and to rule today.

THE COURT: Well, the only problem I have with that, Mr. Deichart, is that while it is true, in some instances, that government lawyers work significantly and consequently, matters of this kind happen occasionally, you don't have but a few matters to undertake, and lawyers that operate the magnitude of practice that Mr. Sonnett operates may very well have some other cases that they have to undertake, in addition to taking on a responsibility of this kind, and I respect the fact that lawyers are not prepared, the same as I do our government, to put forth what they think is their best foot in matters of this consequence, and let me make a frank admission, a young man applied to me for a job as a law clerk, and submitted his respected submissions, a law journal article that he had written, concerning RICO, and I had that law

journal article in advance of this trial. I'm not sure about certain aspects of it, that I certainly would have been more aware of concerning RICO charges. In a rather general sense, it's a very brillant article. I'll submit it to both of you for your consideration.

I'm going to grant the request and allow an additional 30 days. I don't see as how anybody is going to go away from here. The Defendants have been here everytime that they were scheduled to be here. We've had all sorts of other delays, because of complications that have arisen, and I think it's a reasonable request of counsel at this time. So, I'll allow an additional 30 days, and I'll give you 15 days to submit your brief and 10 days for the government to respond, and we'll set this matter 30 days hence.

MR. SONNETT: May I raise one other matter, Your Honor, because it's what I consider to be an inconsistency in the procedural format, and it's now creating an even greater problem.

When Your Honor signed the government's proposed Order and Judgment of Forfeiture, in Paragraph 10 of that order it said, "The Defendants, Thomas Romano and Frank Romano, shall have 30 days from the date of this order, to attempt to obtain a stay of its provisions, absent a grant of a stay by the United States Court of

Appeals for the Fifth Circuit. Within that period the forfeits ordered herein will take immediate effect upon the expiration of that time."

Number one, I'm not sure what the government's authority is for that kind of language in a forfeiture order, but I think the Court well knows that the validity of the forfeiture rests entirely on the conviction. Therefore, to allow, in the absence of the stay by the Fifth Circuit, the execution of the forfeiture, and, then, perhaps a reverse on appeal, would be fundamentally unfair to the Defendants. It's my view, Your Honor, that a notice of appeal filed in this case access a stay of both issues, because after all, these are just bifurcated issues after trial, that is, the criminal conviction and the bifurcated issue of forfeiture.

I would respectfully ask the Court to delete that portion, that Paragraph 10 of the Order, and to allow the stay of the forfeiture along with the stay of any criminal appeal that may be taken without our having to go to the Fifth Circuit.

Your Honor has already granted a restraining order. You have authorized me to set up interest bearing accounts to receive this money. I am not allowed to disburse it without order of the Court. There is no danger that those monies will disappear, and there is

no reason that the issue should be treated differently with respect to the forfeiture provision of 1962, than with respect to the criminal convictions.

I think the government just put in some language that they like. It's nifty language, but it's improper under all the existing case law that I'm aware of.

THE COURT: Mr. Deichart?

MR. DEICHART: The case that I attached to my brief is exactly the same language, so, I challenge you on that.

MR. SONNETT: I saw Judge Hodges order, and I would say the same thing were I in front of him. There simply is no statutory authority anywhere in the RICO Statute or any analogous statute that provides for that kind of situation.

I would point out to the Court that in the case of United States versus Mandel, in the United States District Court for the District of Maryland, that the Judge in that case issued an order of forfeiture and his specific - and I have a copy of his opinion here, and I will be happy to pass it to the Court - his specific finding was that the forfeit - all forfeits were stayed until the expiration of all appeals. That is what I think Your Honor's language ought to be.

THE COURT: What is the period that the 30 days

would run -- What is the date of my order?

MR. DEICHART: Fourth of May.

MR. SONNETT: May 4th, Your Honor.

THE COURT: May 4. So, assuming that June 4th would be the day that it would run --

MR. SONNETT: I have another problem, now, in that Your Honor has given us the additional time to brief these matters, I would at least ask --

THE COURT: In light of the fact that you probably have to go visit the forefeiture subjects, as well, notwithstanding my ruling, why don't I allow that the forefiture proviso be undertaken, in so far as the time period is concerned, to vacate the - set aside that order, reimplicate that order, and Paragraph 10, then, would reflect May 11 as the date that that order would be in effect, and you would then have 30 days in which to prepare that. At that time, I would have your submission on all subjects, and likely be able to rule, and avoid your going to the Fifth Circuit for your stay.

MR. SONNETT: The problem I have with that procedurally, Your Honor, is it forces me to take up two separate notices of appeal, and I just don't know whether that's what the Court intends.

THE COURT: Let me treat your motion as ore tenus at this time, and I'll review it and report to you,

gentlemen, on Wednesday, with reference thereto.

MR. DEICHART: Your Honor, on the scheduling of the date, I'm going to be in the middle of a large drug trial beginning the middle of June. As long as you put it off 30 days, I'd ask, unless we do it before Memorial Day, I'll be in trial, if we can put it to the end of my trial, late June.

THE COURT: So, we're talking early July or late June, you say?

MR. DEICHART: Well, subject to your schedule.

THE COURT: Once you start that trial, it will be just like this one, it was only going to take 10 days, and it won't finish in 10 days. Then, I'll have another day to delay. If you tell me you want a day in June, I'll give you a day in June; just tell me what day you want.

MR. DEICHART: Well, could I notify your chambers afterwards, so I can discuss it with Mr. Sonnett?

THE COURT: Since I'm going to talk to you Wednesday regarding Mr. Sonnett's ore tenus motion, that will be satisfactory.

Prepare the order on the granting of the request for the delay, if you would be kind enough.

MR. SONNETT: Yes, sir. 15 days for me and 15 for Mr. Deichart?

THE COURT: 10 days for the government after your 15

days, and that will put us at a point -- Well, really now, you can take 15 days, Mr. Deichart, especially in light of the fact that you're headed into another trial, and since the sentencing isn't going to be until late June, that will satisfactory with the Court.

MR. SONNETT: Fifteen and 15.

THE COURT: Neal, let me say that - say it all in that 15 days, because the next time I set this case for sentencing, I intend to sentence Mr. Romano, regardless of anything that might be pending; do you understand?

MR. SONNETT: I understand, Your Honor.

Let me just say to the Court that I'm not sure that my clients fully agree with the requests I made this morning. I think they're detrimental, and at least in the case of the video taped deposition, they've been anxious to get to the final dispostion one way or the other. I think I have a professional responsibility to my clients.

THE COURT: Well, it's just that the video thing was --

MR. DEICHART: But, I'll bet it will stick. I'll wait and see.

MR. SONNETT: I don't think that is going to be my major argument, Your Honor.

THE COURT: Thank you. We're in recess as to this proceeding.

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(Thereupon the hearing was concluded at 1:25 o'clock P.M.)

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CERTIFICATE

STATE OF FLORIDA)
SS:
COUNTY OF BROWARD)

I, DONNA MIHALKO, Registered Professional Reporter and Notary Public in and for the State of Florida at Large do hereby certify that the foregoing pages, 1 to and including 18, is a true and correct transcript of my stenographic notes of proceedings had before the Honorable ALCEE L. HASTINGS, District Court Judge, at United States Courthouse, Fort Lauderdale, Broward County, Florida, on the 11th day of May, 1981, commencing at 1:05 o'clock P.M.

IN WITNESS WHEREOF, I have hereunto affixed my hand and official seals in the City of Fort Lauderdale, County of Broward, State of Florida, this 17th day of February, 1982.

Ruth Marie LaCuita
for
Donna Mihalko
Registered Professional Reporter
and Notary Public

My Commission Expires: December 28, 1982

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES JAN. 7 1984
BONDED THRU GENERAL INS. UNDERWRITERS

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 5

terprise. Furthermore, Guarino's denial of having paid a kickback to Martino for that property is not in direct contradiction to the testimony at trial; Noriega did not testify about a kickback, but rather that they bought out Martino's interest.

[110, 111] The decision to grant or deny a motion for new trial on the basis of newly discovered evidence rests in the sound discretion of the trial judge. We will reverse the denial of such a motion only where "it is shown that the ruling was so clearly erroneous as to constitute an abuse of discretion." *United States v. Antone*, 603 F.2d 566, 568 (5th Cir. 1979). That showing has not been made in this case.

The district court's denial of Martino's Motion for New Trial is AFFIRMED.

FORFEITURE

Docket Number 78-2611

[112] The jury returned verdicts ordering the forfeiture of insurance proceeds collected by defendants Russello, Rodriguez, Martino and Guarino. Martino, Russello and Rodriguez appealed the forfeiture orders; Guarino did not.[19] The issue, one of first impression in this court, is whether the term "interest" in 18 U.S.C. § 1963(a) includes income or receipts from racketeering activity.

Under 18 U.S.C. § 1963(a), a defendant convicted of violating RICO must:

> forfeit to the United States (1) any interest he has acquired or maintained in violation of Section 1962, and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which he has established, operated, controlled, conducted, or participated in the conduct of, in violation of Section 1962.

Rodriguez was ordered to forfeit $4,226.83, Russello's forfeiture was for $340,043.09, and Martino was ordered to forfeit $2,500 together with his ownership, interest and property rights in two companies, Ybor Loan Company and M & S Investment Corporation. The appellants' challenges to the forfeiture orders center on the definition of "interest" as used, but not defined, in the statute. The government takes the position that income or profits from an illegal enterprise are forfeitable under § 1963; appellants contend that § 1963 applies only to an interest in an enterprise. Appellants' position is supported by decisions of other courts.

In *United States v. Meyers*, 432 F.Supp. 456, 461 (W.D.Pa.1977), the court indicated that it would be a "strained construction of Section 1963" to classify profits or fruits received from the enterprise as "interest" in the enterprise or as a claim or right that could afford a source of influence over the enterprise. The court went on to note that "the more natural interpretation is that an 'interest' is akin to a continuing proprietary right in the nature of partnership or stock ownership (or holding a debt or claim, as distinguished from 'equity' investment) rather than mere dividends or distributed profits." *Id.* This interpretation was approved by the court in *United States v. Thevis*, 474 F.Supp. 134, 142 (N.D.Ga. 1979), which held that "the limits of forfeiture authorized by 18 U.S.C. § 1963 do

19. Guarino belatedly raises the issue in his brief on appeal of his conviction. This is not sufficient to vest appellate jurisdiction. The order of forfeiture is a different judgment from the sentence and commitment order. A separate notice of appeal was required.

EXHIBIT 5 HOUSE

not embrace fruits or profits derived from the operation of a § 1962 enterprise." Several factors were considered by the court in reaching that conclusion. The different treatment Congress accorded income and interest was noted. § 1962(a) makes it illegal to invest income derived from racketeering activity in the acquisition of an interest in an enterprise. Congress recognized that income and profits could be generated by racketeering activity but it chose to include in the forfeiture provision only the interest acquired or held and not the income of an enterprise. The *Thevis* opinion also recognized that the "enterprise" concept is the basis of § 1962 and that the forfeiture provision is directed toward an interest acquired or maintained "in violation of Section 1962." Thus the existence of the enterprise is also a cornerstone of § 1963. The court was convinced that the use of the word "interest" was limited to interest in the enterprise. Our colleagues of the Ninth Circuit, in a well reasoned opinion, recently held that § 1963 applies to interest "in an enterprise" and not to any form of income or proceeds derived from a pattern of racketeering activity. *United States v. Marubeni America Corp.*, 611 F.2d 763 (9th Cir. 1980).

In reaching our conclusion we are impressed by several considerations. In enacting 18 U.S.C. § 1963, Congress permitted *in personam* forfeitures that had previously been prohibited by 18 U.S.C. § 3563. Viewed in that perspective one would expect that Congress would strictly limit forfeitures. In this instance the limitation would be to the defendant's interest in the enterprise he had corrupted. Such an intent was indicated by the comments of Deputy Attorney General Richard P. Kleindienst before the Senate Subcommittee on Criminal Laws and Procedures when he said:

> It is felt that this revival of the concept of forfeiture as a criminal penalty *limited as it is in* § 1963(a) to one's interest in the enterprise which is the subject of the specific offense involved here, and not extending to any other property of the convicted offender, is a matter of congressional wisdom rather than of Constitutional power. (Emphasis in original.)

Forfeiture under 18 U.S.C. § 1963—RICO's Most Powerful Weapon, 17 Am.Crim.L.Rev. 379, 385 (1980), *quoting* Measures Relating to Organized Crime Hearings Before the Subcomm. on Criminal Laws and Procedures of the Senate Comm. on the Judiciary, 91st Cong., 1st Sess. 66 (1969). Furthermore, had Congress intended to include fruits and profits, it could have specifically provided for such as it did in the Comprehensive Drug Abuse Prevention and Control Act of 1970, passed by the same Congress in the same month as RICO. 21 U.S.C. § 848(a)(2) states: "Any person who is convicted under paragraph (1) of engaging in a continuing criminal enterprise shall forfeit to the United States -(A) *the profits* obtained by him in such enterprise . . . ." (Emphasis added.)

[113] We are convinced Congress did not intend to include in the forfeiture provision of § 1963 the fruits and profits obtained from a pattern of racketeering activity. We are aware this holding occasions problems with respect to associations in which one cannot own a legal interest, as in the case *sub judice*. This limitation was recognized by the Justice Department when it stated that "there is often nothing to forfeit . . . in the case of individuals associated in fact." *Forfeiture under 18 U.S.C. § 1963—RICO's Most Powerful Weapon*, *supra* at 391,

quoting U.S. Department of Justice, Explanation of the Racketeer Influenced and Corrupt Organization Statute 2 (4th ed.). The kind of enterprise will, therefore, be critical in the determination of forfeitable interests.

[114] Having concluded that only interests in an enterprise are subject to forfeiture, we reverse the monetary forfeiture orders against Russello, Rodriguez and Martino. The insurance proceeds they received from the burning of their properties were proceeds or profits from the enterprise; the proceeds did not constitute "interest in an enterprise."

[115] We affirm the order of forfeiture of Martino's interest in his two companies because it falls squarely within the language of § 1963(a)(2) which provides for the forfeiture of any interest affording a source of influence over the enterprise. Both of Martino's companies were active in the enterprise. They provided funds for the arson and fraud ventures. The M & S Investment Corporation purchased property with the intent to burn it, but sold the property to someone else who then burned it. Martino was an active participant; he played an important role within the enterprise, a role made even more effective because of the companies he managed. The Act requires forfeiture of his interest in these companies.

The orders of monetary forfeiture entered against Martino, Russello and Rodriguez are REVERSED. The order of forfeiture of Martino's interest in Ybor Loan Company and M & S Investment Corporation is AFFIRMED.

APPENDIX

As noted below, some fires were listed only as overt acts and/or acts of racketeering in Counts 1 and 2 while others were also the subjects of mail fraud counts (Counts 3 through 35). We list only those fires that are at the core of the convictions appealed. All addresses are in Tampa, Florida, unless otherwise indicated.

1. 1202 E. Buffalo Avenue, a bakery (Counts 1 and 2)—Guarino and Scionti burned the premises with the help of two other arsonists who died as a result of the fire.
2. 3401 24th Street (Counts 1 and 2)—Guarino, Noriega and Scionti burned a frame house owned by Scionti in his brother's name. Scionti received a $1,000 settlement on the insurance policy.
3. 1811 Taliaferro Street (Counts 1, 2, 3 and 4)—Guarino, Noriega and Scionti burned a frame house belonging to Palermo and Guarino (silent partner). This house was burned twice; insurance proceeds were collected by Palermo both times. The first time he collected on a policy transferred to him when he bought the house. After the first fire, he made cosmetic repairs to the house and obtained insurance coverage through a different agency. After the second fire, he collected the full face value of this policy, $10,000.
4. 20410 Old Cutler Road, Miami (Counts 1, 2, 5 and 6)—Guarino, Scionti and Noriega burned a laundromat belonging to Lazzara. Lazzara received only $15,117 although he submitted a claim for $40,000.
5. 2208 10th Street and 923 12th Avenue (Counts 1, 2, 7 and 8)—Guarino, Noriega and Macaluso burned two adjacent frame buildings owned by Rodriguez. $4,226.83 was collected by

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA

No. 78-364-Cr-ALH

UNITED STATES OF AMERICA,
Plaintiff,
vs.
THOMAS ROMANO and FRANK ROMANO,
Defendants.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 6

United States Courthouse
300 Northeast 1st Avenue
Miami, Florida
Wednesday, July 8, 1981
11:15 a.m.

The above-entitled matter came on for hearing before the Honorable ALCEE L. HASTINGS, United States District Judge, at the time and place aforesaid, pursuant to Notice.

APPEARANCES:

JAMES M. DEICHERT, Special Attorney,
U. S. Department of Justice,
Organized Crime & Racketeering Section,
Attorney for the Government.

BIERMAN, SONNETT, BEILEY & SHOHAT,
By NEAL R. SONNETT, ESQ.,
Attorneys for the Defendants.

EXHIBIT 6 HOUSE

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THE CLERK: United States of America vs. Thomas Romano and Frank Romano. Case No. 78-364-Cr-ALH.

MR. SONNETT: Good morning, your Honor. I am Neal Sonnett on behalf of both defendants.

MR. DEICHERT: James Deichert, Special Attorney, United States Department of Justice.

THE COURT: Let the record reflect that Mr. Sonnett has provided me with a number of submissions. I have not had an opportunity to peruse them in detail, but I gather these are in support of the Romanos and various particulars, and any ones you wish to refer to specifically, you might.

MR. SONNETT: Your Honor, I apologize. They just got misplaced in my office and I did not think I was going to find them until this morning.

THE COURT: I understand.

All right. Then I believe we are here on some matters, and let me let you then go forward, Mr. Sonnett, and hear from you on which of the particulars you think are necessary to be heard at this time.

MR. SONNETT: We have, prior to sentencing, your Honor, two matters that are still outstanding.

One is the motion for a new trial or, in the alternative, for judgment of acquittal. And the

other is the defendants' motions, in memoranda, concerning a re-consideration of the Court's previously entered forfeiture order.

Both of these issues have been briefed by both sides. I am sure your Honor has had an opportunity to read them.

THE COURT: I certainly have.

MR. SONNETT: I don't want to bore the Court or waste the Court's time. I am prepared to argue as little or as much as the Court desires with regard to both of them.

There are some points I do want to make on the forfeiture and with regard to the motion for new trial.

I think perhaps what I can do is just summarize what our position is and, if your Honor wishes me to go into greater detail on any of the points, I am prepared to argue in much greater depth.

THE COURT: We will take them one at a time, and let's do the motion for new trial and let the Government respond.

MR. SONNETT: Your Honor, we raised several issues.

We, of course, re-allege the issues that were raised in the motion for new trial or, in the

alternative, for judgment of acquittal that was filed by prior counsel in this case, Mr. Curran, and we have raised some additional issues that we believe to be important issues.

The first of those goes to the question of the videotape testimony, the videotape deposition of Thomas Romano, during the course of trial.

Rather than go into a repetition of the law that we cite, I think perhaps I ought to just place it in perspective for the Court.

I think the Court understands that in almost any criminal case the testimony of a defendant is extremely important. While I did not have the opportunity or the privilege of representing Mr. Romano during the course of the trial, I know enough about-- I know in this case the testimony of Thomas Romano was especially crucial. It went to the very heart of some of the matters that were at issue in an extremely complicated case. And as a result of that, there is no question in my mind but that the videotape deposition and the testimony of Thomas Romano, in whatever form it took, was the most important thing that occurred as far as the presentation of a defense was concerned.

Your Honor is aware that Mr. Romano's health had been aggravated prior to trial. The trial

had been continued on one occasion because of a prior heart attack.

It is clear to me, and we make the point in our briefs, that Mr. Romano gave what I think can best be determined a knee jerk reaction to his desire to put these issues behind him.

We do think, however, that notwithstanding his willingness to conclude his testimony by way of videotape that the effect of the videotape testimony denies him a fair trial for several reasons.

We point out that we believe further inquiry should have been made. Mr. Romano, as I understand it from the record, was not in court at the time that the joint motion was made by Mr. Deichert and Mr. Curran and no personal inquiry was made by the Court until Saturday morning when the deposition began.

I have set out in my motion the extent of that inquiry, and we believe that the Court should have, notwithstanding Mr. Romano's superficial consent or what the record shows as his consent, should have made further inquiry regarding the state of his health and regarding other options that might have been open to him.

We also have made the point that the dictates of Rule 15 were not followed and, of course,

the Government indicates that it is Rule 15 which provides the basis for this, although I am unaware and Mr. Deichert and the Court are unaware of this having been done like this before.

It is a case of first impression specificially, and Rule 15(d)(1) does provide that a defendant can be deposed but Rule 15(d)(2) also says that the scope and manner of examination and cross examination shall be such as would be allowed at the trial itself.

In this instance, we believe that the dictates of Rule 15 were not followed and that the result was prejudicial.

I have not seen the videotape, but my understanding, from talking to many people involved including Mr. Curran, is that what happened was that following objections that were made and sustained and perhaps arguments in between those objections that are reflected in the transcript of the deposition that rather than edit those out, when the videotape was played for the jury the following Monday morning after it was completed that previous Sunday, the sound was simply cut out so that there were long stretches on many occasions in which the jury saw Mr. Romano's mouth moving but did not know what was being said, because we

don't know whether or not any of the jurors read lips, and I am not sure whether that would have been helpful or harmful to Mr. Romano, but it did leave the jury to speculate on what was being said.

That certainly is not what would have happened had the testimony been live at trial, and we believe--

THE COURT: What would have happened had it been live at trial, where I didn't allow what Mr. Romano said, would have been that the jury would have heard it and then I would have told them, "In the spirit of proceeding that you are not to take into account what you just heard and strike that from your mind."

MR. SONNETT: Not quite. That may have occurred on several occasions. But I think probably what would have occurred more often is that some of those answers would have been ruled upon either at sidebar conferences or before the answer actually came out.

But because of the fact that it was a deposition, and I think the parties are more relaxed during a deposition because you can go back and look at it again to decide whether or not things should be cut out or not, there was, I think, perhaps more of an opportunity for Mr. Romano to answer than he might have

had had his testimony been live, and we think--

And you have got to put this entire situation into the perspective of the fact this was a very complicated case. Your Honor made that comment several times during the trial.

There was inquiry made on at least one occasion of the jurors, and I think on one occasion jurors nodded their heads in the negative when asked if they understood what was going on.

In light of the complexity of the trial and also in light of the fact that a full week had elapsed between the Monday morning, December 15th, when Mr. Romano became ill, and Monday morning, December 23rd, when the videotape deposition was shown, the jury had been without the benefit of hearing any evidence and going a week without being reminded of what the evidence was, before they ever got into Mr. Romano's videotape deposition.

We believe, again, that the error was compounded by the fact that while the videotape deposition was shown, Mr. Romano was here in the courtroom and the jurors, I think, were left to speculate in some regard why Mr. Romano was present and yet the deposition was taken by videotape.

It seems to me, your Honor, that if we

flip this whole argument around and ask the Court whether or not if I came as a lawyer before the Court and said, "Judge, my client would feel a lot more comfortable if he didn't have the pressure of having to testify right there in front of the jury and he would rather be videotaped so he can be a lot more relaxed," I think the Court would obviously say, "No." And for that reason, it is important for the jury to be able to see a man, it is important for them to gauge personally his reactions.

And I think, all in all, the videotape deposition took that away. As crucial as the testimony of Mr. Romano was, we believe that was error.

We also assign some error, as far as Frank Romano was concerned, with respect to the issue of whether or not the Court conducted a colloquy or inquiry with him and particularly with respect to whether or not at that point in time there was a necessity of a further Garcia hearing to determine whether or not there was any kind of a conflict in this case.

As the Court is aware, Mr. Curran represented both defendants. There was a full Garcia hearing, and there is no question about the fact that the dictates of United States vs. Garcia had been followed back in February of 1980.

But the Supreme Court has said that the Court has to be aware of the fact that potential conflicts can arise during the course of the trial and, whenever such a possibility arises, then it is necessary for there to be further inquiry.

There was not in this case, even of Mr. Romano, of Mr. Frank Romano, with regard to what his position would have been. And I don't know that his position could have been articulated to the Court because of the joint representation by Mr. Curran, and I cast no aspersions on him. I don't know him well but I consider him to be a fine and honorable man.

I do think, however, that there was the occasion that arose here that created an area of conflict.

For example, had I been representing Mr. Romano at that point in time as separate and independent counsel, I can assure the Court that I would have ranted and raved about proceeding as far as Frank Romano was concerned with the videotape deposition of his co-defendant.

I can assure the Court that I would have fully exercised every right I had to cross examine with respect to the ability to ask leading questions, and I can assure the Court I would have been able to point

out that perhaps in certain areas Thomas Romano's testimony, as a result of his health, was not as lucid or clear as it could be.

I also would have been able to point things out in a closing argument had I been Frank Romano's lawyer alone. Those were things that Mr. Curran was not able to do as a result of the fact that he represented both defendants.

And the proof of the pudding may very well be found in Mr. Deichert's closing argument because, in his closing argument, he weighed heavily on the fact that Thomas Romano in his testimony hesitated and tried to ascribe that to lack of truth-telling when, in fact, it might very well have been ascribable to Thomas Romano's medical condition under the circumstances in which he gave a deposition.

The second issue we raise, your Honor, is that of the complexity of the indictment and I do not have to review the indictment. I understand it took three and a half hours to read, which is just slightly less time than the jury took after twenty-two or twenty-three days of hearing this trial to decide the case and come back with guilty verdicts on all counts.

I pointed out in my memorandum of law

that in the first L'Hoste case, a case that the Government relies heavily on in other areas, that after L'Hoste and his co-defendant had been convicted and at the time they appeared for sentencing, the District Judge said that he had been bothered throughout the course of the trial by the complexity of the indictment and, more importantly, by the complexity of the proof, and he at that point in time threw the indictment out, granted the defendants a new trial and said that he just did not see how it was possible for the defendants to have received a fair trial based upon the complexity of the indictment in L'Hoste.

I have compared that indictment with the indictment in this case, and in my view, the indictment in this case is even more complex than that case, even though there were more defendants in that case, and I think that while ultimately L'Hoste was tried and the co-defendants were tried and convicted and the convictions were upheld by the Fifth Circuit, that your Honor should carefully consider the actions that the District Judge took in the first L'Hoste case.

We forget sometimes that there was a second trial because of the new trial being granted based upon the complexity of the indictment, and I do have, if your Honor wishes to review it, the appendix

to the L'Hoste briefs which contained the full text of the Judge's remarks in that case, and I will be happy to make that available to the Court.

One of the things that the Judge said there, which I argue throughout my memorandum, is that this just never should have been a RICO case, and in terms of the complexity of the case, that certainly contributed to it.

I would also like to point to the recent case of United States vs. Guiliano, which was just decided on March 10th, found in 29 Crim.L. 2106.

There were two counts of indictment reversed in that case, including a RICO count, based upon insufficiency of one of the predicate crimes. But the remarks of the Court there in reversing, I think, is very interesting.

The panel said:

"Some concern about Government's attempt to apply the RICO statute to the activities of Guiliano, it is perhaps understandable that the Government would bring a RICO charge against Spinale who appears to have been the prime mover in what may well have been an elaborate scheme to commit a series of bankruptcy

frauds. But the charge as applied to Guiliano is far more questionable. We doubt that Congress expected the statute to be used in circumstances where an embezzlement can be escalated into a Federal bankruptcy fraud and then joined with another bankruptcy fraud to form an alleged pattern of racketerring activity."

Now, that regard--we go to the next point which deals with the invalidity of the predicate offenses and largely rests upon the recent decision in United States vs. Computer Sciences Corporation, and I am sure your Honor is familiar with that, and I am not going to start quoting that case.

But particularly with regard to Count 6, the second of the 1962 pre-RICO's, there is what I consider to be almost a strict analogy between the Government trying to bootstrap itself on the embezzlement charges and making mail fraud out of them so they can get the two predicate crimes.

Why? Because the Department of Justice likes them to use RICO and because RICO is the way they can try to get forfeiture.

And this RICO charge, had it not been Thomas and Frank Romano who the Government was,

according to the pre-sentence investigation, curious about with respect to their relationship with another figure under investigation--this might very well have been brought as a simple one count 664 embezzlement case and the case could have been a lot easier.

It didn't deserve to be a RICO and, in fact, the Government had to stretch some to make it a RICO.

And I think with regard to at least Count 6, that Computer Sciences Corporation or that case is strictly analogous to the facts that we have here.

It is not as clear, I will admit, with regard to the RICO as charged in Count 1 and Count 15, but certainly with regard to Count 6, it is. And I think the same reasoning can be applied, as I pointed out in my memornadum of law, with regard to the first and third RICO's.

Turning my attention then to the final point and that is the multiplicity of Counts 1 and 6, a fair reading of the indictment in my view, Judge, cannot lead to any other conclusion but that these two counts are multiplitious.

I cited in an effort to bolster my argument from the Government's own trial brief where

they talk about the overall fraudulent scheme that the Romanos developed in order to build the Greens of Inverrary.

It is true, as Mr. Deichert says in his reply memo, that they can point to separate victims, and it is true that they can compartmentalize these, if they wish, by using in one case K.R.R. or Romano Brothers Limited and in another case K.R.R., they can show there may be different corporations through which the misrepresentations were made and they can separate the victims.

But if your Honor looks to the predicate offenses to the first RICO, Counts 2, 3, 4 and 5 all deal with the pension fund. The Government says that the pension fund is not a victim here, but Count 2 is a 1341 scheme that deals with letters regarding the pension fund. Count 3 is a 1341 that talks about the fruition letter to I.O.T.A. dealing with the pension fund. Count 4 is the $800,000 1341 wire fraud that goes from New Jersey to Miami from the pension fund. And Count 5 is a pension fraud letter, "Re: Expenses," involving the $728,000.

So, while the Government carefully and I think clearly says that in the first RICO the real victims here are Martin Kane, K.R.R. and I.O.T.A and

not the pension fund and comes back in Count 6 and says, "Here we have the pension fund as the victim. We have one overall scheme," if the Court accepts that the mail fraud is properly charged, it could have been charged as one mail fraud with different victims.

And, as a matter of fact, the recent case of United States vs. Martino, which was just decided on June 19th--and I think your Honor has probably seen the slip decision--deals with that very issue in the reverse, where the defendants argued that the indictment was duplicitious because fifteen different fires were charged in one count and they said, "Wait a minute. These are all different insurance companies. These are all different fires. They are all different conspiracies." And at Page 8243 of the slip decision, the Court says, "No." The Court says:

> "That, to the contrary, the allegations addressed to the various substantive offenses committed as part of the conspiracy are merely descriptive of the single overall agreement."

The agreement here, although not a RICO conspiracy, was not charged, but the agreement here was allegedly between Thomas Romano and Frank Romano and it was one continuing scheme that had different victims.

So, in that respect, it is clear to me that the counts of the indictment, as far as 1 and 6, are multiplitious and it makes no difference that the Government is able to carefully draw the lines so that each count has different victims and each count has different corporations. It is still one overall scheme, according to the Government's trial brief. And one count at least should fall because the Government should have been required to elect prior to trial.

I point out the Bradsby case that indicates that whether or not this was raised in a motion for severance--and it probably was not--that it still can be considered by the Court and it was, in fact, considered post-sentence by the Fifth Circuit in Bradsby.

That, your Honor, is our position with regard to the new areas that have been raised in the motion for new trial.

THE COURT: All right.

Mr. Deichert?

MR. DEICHERT: Your Honor, if you would have no objection, I would prefer to speak from back here.

THE COURT: That is perfectly all right, as long as this court reporter can hear you.

MR. DEICHERT: I do not think anyone will have any difficulty hearing me, Judge.

I will take the arguments up in the sequence Mr. Sonnett laid them out before the Court.

First, the video deposition.

Mr. Sonnett raised the fact that the defendant had a heart attack. I challenge that. Specifically, all the medical reports in this case indicated he had an angina condition. It's not determined that it was a coronary. I think that elevates, perhaps, what would otherwise be a somewhat grave concern over his giving a deposition to out of proportion.

The defendant here has the burden of raising facts to overcome his acknowledged concern to give the video deposition.

On the record in this case, as counsel indicated, he had spoken to his client. The individual had consented to give a deposition. And the next morning, the Court raised the matter most specifically with Mr. Romano and again he indicated he was willing to go forward on it.

No medical affidavits, no affidavits from Mr. Romano, from any other medical personnel or any medical proof that he was not on any medication and otherwise physically and mentally impaired from

giving lucid and clear testimony, and I think the Court obviously, as we labored through two days of sitting in the hospital, was quite aware that he had the ability to testify in detail and had excellent recall and, in fact, sparred quite frankly with me on cross examination.

I don't think a person who was unable to recall facts or unable to provide testimony could have acted in the manner Mr. Romano did.

The deposition was given in accordance with Rule 15. The Court, within its discretion, determined that the defendant was unavailable; that his own physician as well as the Court-appointed physician indicated it would be injurious to his health to have him testify in a trial setting.

There was no indication at all in the record that he ever could have testified on direct examination or cross examination before a jury in this case.

The defendant has raised no facts to shed any light that the Court abused its discretion in authorizing the deposition in this case.

On the matter of the jury being shown portions of the deposition which were edited out, I think, as the Court will recall, we passed forward

through most of those pieces, the transcript was marked, and there was not a great deal of matters shown to the jury in that way.

The aspect that there was a delay of five days: I don't think it is an inordinate amount of time, breaking up a trial for five days, that the Court abused any discretion there.

If anything, I believe that the defendant's presence in the courtroom when the deposition was shown, particularly after the Court indicated that this was being done for health reasons for the defendant, if anything, would give a climate of jury sympathy for the defendant and would cut against the Government.

The defendant here has not shown any prejudice, has not shown that the Court has abused its discretion, has not shown that the Federal Rules of Evidence or Procedure were violated, and for those reasons, the Government would ask that that motion be denied.

Moving on to the conflict of interest matter, the defendant here has the burden under the Holloway case to show that there was an actual conflict, particularly since no conflict was raised at trial.

Mr. Curran was in a position that, had

a conflict arisen, he would be the best judge of that and had the opportunity fully to bring it to the Court's attention.

I submit that the conflict issue was not raised by him because none appeared.

There has been no showing by the defendant there was any difference in the trial procedure or trial tactics from the time that the Garcia hearing was held in February until the time of the trial.

At the time of the hearing, both Thomas and Frank Romano knew that there was a substantial likelihood that one or both would take the stand and their rights to cross examine their brother would be severely limited.

The brief by the Government goes into detail as to the aspect that it was a unified defense at trial and that was the best technique to go forward on.

The Cuyler case, a United States Supreme Court case, indicates that the burden is on the defendants, which they have not met here, to show actual conflict, and, once they have shown actual conflict, that the conflict adversely affected their attorney's performance.

I submit that they failed to support

their burden here.

The Government would ask that that motion be denied.

On the complexity of the indictment, I would challenge Mr. Sonnett's statement that the indictment took three and a half hours to read. My recollection was that it took not more than an hour. I remember specifically opening the case right after lunch, and we took several hours to pick a jury in this case. So, I have difficulty with that.

On the analogy between this case and the L'Hoste case, the L'Hoste case, the facts there were, it was a seven-year pattern of corporate bribery to numerous public officials. It involved a number of public construction projects. It involved a substantial number of defendants. And the proof there cannot be compared. I think the length of time was some two to three times longer than that case.

The reference that there was at least one juror who I recall did have some difficulty understanding the case, and the Court did not let that juror sit. My recollection is that it was Juror 6, I believe, who had a conflict with her family matters over the Christmas holiday, and the Court excused her. She was the only juror who ever raised her hand to indicate

difficulty comprehending it. My recollection is clear that she had not a complete ability to be clear in the English language. She was not completely bilingual. I think the language barrier here was probably more of a hazard than the Government's proof.

The indictment was broken down into separate, distinct offenses. The proof was clear on each of the counts.

And I think that the defendants failed to meet their burden on the complexity, and in my judgment, the Court should affirm its earlier judgment denying the motion to dismiss on that ground.

On the multiplicity argument, Mr. Sonnett brie_ ses analogies between the Cuyler case under Section 371 of Title 18 and ignores the Blockburger case which is immediately on point.

I won't belabor this issue. I submitted a memorandum of law which outlined the Pereira case and other Supreme Court cases showing that mail fraud can be brought in conjunction with other specific crimes, including defrauding the Government, and many other types of factual situations.

The Computer Science case raised by the defense is not present in this Circuit and cuts against the main flow of the law on all the cases that the

Government raised in its brief, including the United States Supreme Court authority.

The aspect that the RICO is being lumped into one offense: Again, the brief goes into it in detail. But it is clear that the crime was not a unified scheme. They had separate goals, separate and distinct methods of carrying their criminal plans out and achieving the frauds.

The defendants certainly could have stopped after the fraud had been culminated, and it was culminated. Except for the concealment factor, the first fraud stopped at that point, and it could have been prosecuted at that point, and the embellishments from the pension fund involved a loan as opposed to stealing the proceeds of the loan--as opposed to obtaining a loan, and totally different factual information was involved.

And I think, if anything, the United States could have lumped in many, many more counts in this case, and the indictment was tersely drawn to suit the overall activities of the defendants during a two and a half year period of time.

And we would ask that the defendants' motions on multiplicity and for overlapping RICO offenses be denied as well.

I am prepared to entertain any questions the Court may have.

THE COURT: Any rebuttal, Mr. Sonnett?

MR. SONNETT: Not unless the Court wishes any.

THE COURT: No.

Based on everything that is before the Court at this time, the briefs and the oral submissions, the Court is constrained to deny the motion for new trial as it pertains to all of its particulars.

And I guess the next thing for us to deal with is the forfeiture problems.

MR. SONNETT: I may smile a little more, your Honor, when I argue this point of it because I think I am on a lot better grounds.

THE COURT: All right.

MR. SONNETT: The briefs that the Government and the defense have submitted have been directed so much towards the issue of what I call the third forfeiture -that is, the interest in the Sea Inn--that we may have been distracted momentarily from the other two forfeitures, and they are equally as important, and I think absolutely controlled by the Fifth Circuit's very recent decision in the United States vs. Martino case.

I think the Martino case, your Honor, with regard to the forfeiture in Count 1 and the forfeiture in Count 2 mandates a vacation of this Court's findings of fact, its special verdicts and its order in judgment of forfeiture, and just by way of summary let me indicate basically what those three forfeitures are.

The first forfeiture, what I will refer to as the first one--that was out of Count 1--was the proceeds of two checks that total $540,000. From that, the Government has deducted in their findings of fact that were submitted to the Court the sum of $234,061 which they had traced to an investment in the Sea Inn and which turn up again in the third forfeiture, that is, the Sea Inn interest from Count 15.

So, the Government asks that the total amount in forfeiture, number one, that should be forfeited is $305,939, divided in half, according to the order of judgment, and forfeiture is $152,969.30 for each defendant.

The second forfeiture that deals with that stems from Count 6, is the cash proceeds of the fifty-eight alleged fictitious checks that total $540,000, divided in half, $270,000 for each.

And, finally, the third forfeiture, what I finally referred to as the Sea Inn forfeiture, is,

first of all, the investments that the Government purports to have traced in the amount of $234,061, and they add to that their calculation of 23.4 percent of the profit realized from the sale of the restaurant or the amount of $82,016, for a total of $316,077. The order of forfeiture divides that between the defendants and forfeits the prorata share of $158,038.50.

That's just to try to get all three of these forfeitures straight.

The Martino case, your Honor, clearly holds that Counts 1 and 6, in terms of the forfeitures, are absolutely impermissible.

Martino, as you know, was decided on June 19th, just a couple of weeks ago, and it just came out in, I guess, slip decisions last week or the week before last.

It is, interestingly enough--although I didn't catch it right away--the reversal of the Guarino case which the Government appended to its original forfeiture memorandum of law, and that was the order that we had argued about from Tampa and Judge Hodges' order when we last appeared before the Court.

That order which purported to forfeit cash proceeds was reversed by the Fifth Circuit in all respects except for an interest that one of the de-

fendants had in a going business. They held that that was reachable by forfeiture.

THE COURT: I recognize that the Fifth Circuit has spoken on some aspects of forfeiture in the Martino case, and I am mindful, also, of another recent case, Turkette, where it seems the United States Supreme Court, if I understand Judge White's opinion--they took cert. on that case to avoid confusion that apparently had appeared ala RICO and a number of other matters, to define some aspects of what the RICO statute did, in fact, mean. They don't reach forfeiture in Turkette.

MR. SONNETT: At all.

THE COURT: Well, my question--

MR. SONNETT: The language explains what the Martino decision is saying.

THE COURT: Is there equal confusion in the Circuits--not that that should be controlling on any decision that I might have to make--but is there equal confusion and is there a case that you know of that is traveling now to the Supreme Court on the subject of forfeiture that may very well put to rest many of the issues that you raise or that were, in fact, raised as a result of this trial?

MR. SONNETT: I am not aware of the issue having been either applied for cert. or granted cert.

Jim, if you know, I will be happy to be informed about it.

I do know that there is some confusion among the Circuits, and the Law Review article Mr. Deichert submitted points that out in one of the footnotes. But the better authority and certainly the controlling authority in this Circuit, based upon the District Court case, in the United States vs. Thevis, which is adopted now by the Fifth Circuit in the Martino case, means that until the Supreme Court some day decides to hear this case, that in my view this Court has no real discretion but to follow the mandates of the panel opinion in Martino, which is extremely well-reasoned and which itself discusses at length not only the Thevis case but the case from the Ninth Circuit decided on January 10, 1980, United States vs. Marubeni America, which is cited at 611 F.2d--

THE COURT: I have not read that case. Do you have a copy of it?

MR. SONNETT: Yes, sir, I do.

THE COURT: All right. Go ahead.

MR. SONNETT: Since your Honor raised the Turkette case, let me see if I can put that to rest, because in my view--

THE COURT: I only raised it to show you

how the Court took cert. because there was confusion. It is not controlling in regard to any of the matters that are here on forfeiture, I don't believe.

MR. SONNETT: In my view, it does not do any damage at all to the reasoning of the Fifth Circuit.

What Turkette says basically is that the thrust of RICO and the scope and breadth of RICO can go to an entirely illegitimate operation, and even in the language of Turkett, the Court talks about the kind of illegal operations that they mean--for example, a horse parlor or dog wagering or a bookie business. That's not the kind of situation we have here.

The precise question that is decided by Martino in this Circuit, which they say in the start of the case is a case of first impressions, at least on the Circuit Court of Appeal's level, is, "Whether the term 'interest' in 18 USC Section 1963(a) includes income or receipts from racketeering activity."

Now, they cite to the Thevis case and they cite to the case I have just given your Honor out of the Ninth Circuit and they use the words "fruits or income derived from," but that is what we are talking about here.

THE COURT: But there they are talking

about interest in an enterprise. And doesn't it seem that the Court in some respects is ignoring 1963(a)(1) which mandates forfeiture of interest acquired in violation of 1961?

MR. SONNETT: But with respect, your Honor, to the RICO forfeitures in the first two, we don't have that.

With respect to the first two RICO forfeitures, what we have is exactly what they have in Martino.

The Martino case involved a series of arsons, fifteen separate ones, and claims made to the insurance companies. It was a mail fraud scheme to defraud the insurance companies and for the defendants to receive the proceeds of this insurance fraud.

THE COURT: Were those arson receipts interest acquired?

MR. SONNETT: No.

THE COURT: You think not?

MR. SONNETT: They were the fruits of, and that's exactly what the Martino Court held.

THE COURT: You maintain if that is true and if that is what the law is or is likely to be, then we are, in some respects, getting around the entire policy or intent of Congress as it pertained to RICO

forfeitures?

MR. SONNETT: No, because the Martino Court quotes the Department of Justice in pointing out where the problem arises. It arises in exactly this kind of a situation.

The Court says:

"We are convinced--"

this is the Martino panel speaking:

"We are convinced Congress did not intend to include in the forfeiture provision of Section 1963 the fruits and profits obtained from a pattern of racketeering activity."

The panel goes on to say:

"We are aware this holding occasions problems with respect to associations in which one cannot own a legal interest as in the case sub judice. This limitation was recognized by the Justice Department when it stated that, 'There is often nothing to forfeit ... in the case of individuals associated in fact',"

and cites to the United States Department of Justice an explanation of the Racketeering Influence & Corrupt

Organization Statute, Fourth Edition.

THE COURT: These guys in Martino that received the receipts in the arson undertaking could then have invested that money in something, in $2 over-the-counter stock that went to $40 the next day.

MR. SONNETT: As a matter of fact, the statute says that.

THE COURT: The $38 over and above is not forfeitable.

MR. SONNETT: Well, there are two things here. Neither one is forfeitable. The $38 that they invest in the $2 over-the-counter or whatever moneys they invest is not under the RICO statute itself reachable by the Department of Justice because there is a specific statutory exception for stocks invested in where there is less than a one percent controlling interest. That is a statutory exemption.

And even the Martino Court looks at that as the basis for their reasoning here. What they say very clearly is that Congress recognized income and profit could be generated by racketerring activity but it chose to include in the forfeiture provision only the interest acquired or held and not the income of enterprise.

Then they say:

"Our colleagues of the Ninth Circuit," in the case I have just given your Honor,

"in a well-reasoned opinion recently held that Section 1963 applies to interest in an enterprise and not to any form of income or proceeds derived from a pattern of racketeering activity,"

citing United States vs. Marubeni America Corp., 611 F.2d 763.

THE COURT: I am still having trouble understanding the difference between an interest acquired by enterprise and income of an enterprise.

MR. SONNETT: The difference very simply is that if income, the proceeds of some illegal activity--we use a mail fraud in this case because of what the Government charged. There is an embellishment from the pension fund. There is "X" number of dollars that are received by the defendants from the pension fund as a result of this mail fraud scheme.

The funds--the profits derived from or, in this case--I should not use the word "profits"--the fruits of this pattern of racketeering activity cannot under Martino be touched.

If they take that money and they invest it in an enterprise--a restaurant in this case, the Sea

Inn, come under Count 15--then the Government says or the Court says and the statute says you can take it under certain circumstances.

I am not sure that the Government has satisfied those circumstances here.

But there is a difference between the fruits of the unlawful activity and the interest in an enterprise.

And exactly what Martino talks about is the exact situation in the case at Bar, because while the proceeds, the fruits, were insurance company pay-offs that went to these people--in our case, we have loans from the pension fund, and there is no legal or factual difference between the way the moneys were received in the light taken most favorable to the Government in either case, and in the case of Martino, every one of the cash flow forfeitures, which is what the Government asks for in Paragraphs 1 and 2 of the order of judgment and forfeiture here--every one of those was overturned by the Fifth Circuit.

The only forfeiture that the Court allowed in Martino is the forfeiture of a business interest.

They say:

"Having concluded that only

interest in an enterprise are a subject of forfeiture, we reverse the monetary forfeiture orders against Russell Rodriguez and Martino. The insurance proceeds they received from the burning of their properties were proceeds or profits from the enterprise. The proceeds did not constitute interest in an enterprise."

Then they say:

"We affirm the order of forfeiture of Martino's interests in his two companies because it falls squarely within the language of 1963(a)(2)."

Now, your Honor asked the question, "Why are we overlooking (a)(1)?" and the answer is, "It doesn't make any difference." They just happened to pidgeonhole this particular one as an (a)(2) situation, but whether you look at (a)(1) or (a)(2), you still cannot forfeit other than an interest in an enterprise and you cannot forfeit cash received as a fruit of the unlawful enterprise.

Now, let me differentiate the word "fruit" from the word "profit" because the word "profit" in the sense that I use it does not come up until

we get to the $82,000 of profits in the Sea Inn sale in the third forfeiture of Count 15.

What I am suggesting is that the same rule of law has to apply there; that the first forfeiture in Count 1 cannot stand; that the second forfeiture in Count 5, the $540,000 for the fictitious checks, cannot stand; and that because profits cannot be touched but only the interest, that the only thing that the Government can attempt to forfeit is the extent of the defendants' interest in the Sea Inn and that does not include the $82,000. That is what the Government calculates as the profit realized from the sale of 23.4 percent of the profit realized from the sale.

So, the Government is left under the Fifth Circuit situation and decision, and it is just as clear as it can be, and I think even the Government recognizes that, your Honor, they are left with an argument on whether or not they can forfeit the $234,000 that they say they have been able to trace into the Sea Inn itself and, of course, we have made in that respect a separate argument that deals with whether or not in an in personam forfeiture the Government has met their burden.

What they propose to do here is to find

some way to get the Court to, in effect, pierce the Romano's veil and rescind the assignment to Louima of this wrap-around mortgage and to say it really is the Romano's mortgage and that, therefore, it can be forfeited. That is simply not what the cases say.

The in personam forfeitures expressly are limited to those held by the defendants who are convicted, and these cases hold that no forfeiture of interests held by the interests, heirs, successors or assigns can be forfeited because there is no conviction of them under 1962.

Now, of course, your Honor well understands that if the RICO convictions were to fall, the forfeiture falls.

The reverse is true: If there is no RICO conviction, there can be no forfeiture.

The natural question, I think, that the Government is going to ask is, "How then do we ever get at property that is being concealed from us by somebody that places it in somebody else's name?" And the answer is very simple. That is part of the RICO. If there is concealment of the assets in the enterprise, then that person is, in effect, a co-conspirator and the Government can reach it by indicting the person who was the nominee or is holding it

for the defendant, and can then, upon conviction of that person, forfeit the interest. But that is their remedy.

Their remedy is not to say, "Louima can go to talk to the Department of Justice and file an administrative petition for remission." The statute says that, but that is not what it means. The administrative petition for remission--the language of the RICO statute says that the Government shall do everything it can to forfeit with due regard for the interest of innocent parties, and they are talking about innocent parties who may jointly have an interest with a defendant.

The L'Hoste case is a perfect example of that, of course, because one of the arguments made in the forfeiture aspect was that L'Hoste's wife, who under Louisiana law is entitled to community property, would be deprived of her community property rights.

There was never any question about whether or not L'Hoste owned the property, but whether or not an innocent party, his wife, who also had an interest, would be deprived of it. And there the Court said, "Okay. That's the reason the RICO statute said, 'With due regard for the interest of innocent persons, you file your petition for remission and you also have

judicial remedies that can accrue to you if that does not work'."

I think the clear intent of what Congress meant to say to the Government is that, you don't tread over the bloody paths of innocent interest holders in some of these things that you are trying to forfeit.

We don't have that situation here.

We have an assignment to a wife of the interest. At the time of conviction, there is no interest in the Sea Inn. There wasn't interest in the Sea Inn. There is just a security interest under (a)(1). But, at best, there is the (a)(1) security interest and that is not held in the name of Frank or Thomas Romano but in the name of Lu Ann Ruth Romano, and the Government can find no authority under the RICO statute at least for piercing that kind of a veil and saying that there is--"We are dealing here with a concealment of assets to get around--"

THE COURT: Doesn't the Government say that the income that was derived from the pattern of racketeering activity--that there was a paper trail of selling of the RICO funds into certificates; the certificate then purchasing the Sea Inn; and then the wrap-around mortgage coming subsequent to all of that.

And if that is true, if those funds were

acquired by using income derived from a pattern of racketeering activity and the Sea Inn was purchased, would not the Sea Inn be forfeitable at that point in time?

I don't understand why not.

MR. SONNETT: If the interest was still in the name of Frank or Thomas Romano, absolutely.

THE COURT: How long would the interest have to be in their name before we could go get it?

MR. SONNETT: Well, let me turn that question around, without meaning to be disrespectful.

The statute says you only need to have one predicate act since the inception of the statute. That means that the Government could bring a RICO prosecution with a predicate act that goes back to 1954.

How long are we going to give the Government to go after an interest?

And the point is that at the time of the conviction is when the interest has to be there.

Now, if the Government indicts a person, they have under the provisions of 1963 the right to rush into court--your Honor has seen the applications--and to ask for restraining orders and to ask that Thomas or Frank Romano not be allowed to dispose, assign, pledge, sell any of these assets.

That wasn't the situation here, because the sale was already underway and was closing at the time that they could have come in for such a restraining order. The Romanos never owned it.

The Government wants the Court to believe that what happened here is that the Romanos got some magical word there was an indictment coming down and decided pretty quickly that they better get it out of their names. I don't know that lawyers understand the RICO statute well enough to do that.

The fact of the matter is, and I am not sure it was ever brought out, but there were divorce proceedings going on between Thomas Romano and his now ex-wife and there were settlements being made there and there was an assignment of her interest over to Louima as part of the divorce settlement. So, Louima wanted out with the entire interest so he could get out of the rather sticky divorce proceedings going on.

This was not an attempt that youfind in concealment, a 152 bankruptcy fraud concealment, where the Government can show there was an attempt to conceal assets from the reach of the Court, because the sale was well underway at the time the indictment was returned.

Not only that, the investigation, as the

Court well knows, began in New Jersey in 1976 and, of course, the restaurant was incorporated in 1975. So, if there had been a desire to conceal assets or to keep assets for some reason, sinister or illegal, out of the names of Thomas and Frank Romano, it would have been done right then.

That assignment was not made until the sale of the restaurant to Panda Enterprises in 1978.

The Government has not presented any proof that there was an effort to conceal assets here.

The only thing that they tried to argue is that Louima does not appear to have made an appropriate capital expenditure or investment into this.

THE COURT: I have already held that transfer to Mrs. Romano or Louima as you keep saying was sharing--

MR. SONNETT: That's what we are asking the Court to re-consider. We don't believe that the Government has proved that either by the memorandum of law or by the testimony or documents that have been presented in court.

THE COURT: And the defendant didn't put on anything in reference to that to show it was not, and I am not saying the defendant had to prove anything, but the fact is that the defendant did not.

MR. SONNETT: To the best of my knowledge, there was no evidence presented by the defendant at the evidentiary hearing before this Court--I was not present--but I might add that there is no authority under the RICO statute for such a finding anyway.

In my view, the RICO statute--and I guess the Supreme Court is going to have to decide it some day--but the RICO statute is limited by its terms under the strict limitation of 1963(a), and if you will look at the legislative history of 1963 as opposed to the 1962 provisions, then because of the severity of the RICO forfeiture and because it is in personam rather than an in rem forfeiture, the forfeitures are much more limited.

But even if the Court believes that it can and has held that this was a sham transaction, then, at best, the Court under the Martino case can order the forfeiture of the $234,000 that made up the interest that the defendants placed in the Sea Inn.

The Court cannot under the Martino case order the forfeiture of the $82,000 in profits, and the Court cannot order the forfeiture or what the Government calls a lien against the assets of the defendants in the amounts of the $540,000 in the second forfeiture and the $305,000 in the first one.

Those, I think, are clearly bound by the dictates of Martino, and the forfeiture would be limited as perhaps it should properly, your Honor, to the defendants' interest in the Sea Inn.

Your Honor, I am sure, is aware from the pre-sentence investigation that there are pending litigations both by I.O.T.A. and by the pension fund, and if, in fact, there was an unlawful or wrongful taking, the litigation there will detemrine whether or not those victims, those claimants, that is, the pension fund or I.O.T.A., are going to be entitled to get their money back.

And to get the lien the Government asked the Court to do is well outside the purview of the statute.

THE COURT: All right. I hear you loud and clear with reference to your argument.

Mr. Deichert?

MR. DEICHERT: On the RICO, first of all, I think it's improper for Mr. Sonnett to make refernce to the civil litigation.

The United States has a legal right and, in fact, the Fifth Circuit has recognized that the Courts have a mandatory obligation to impose the sanction of forfeiture.

The Government has met its burden of proof in this matter. Civil litigation is not pertinent at all.

THE COURT: That particular matter does not carry any weight, I assure you, Mr. Deichert.

MR. DEICHERT: The defendants here, your Honor, were convicted of conducting an enterprise through racketeering, Count 1, which was the I.O.T.A. land fraud, and Count 6, which was the pension fund fraud, and the defendants were convicted of using income, and 1962(a) specifically speaks in terms of income derived directly from racketeering activities, to acquire interest in the Sea Inn of Hallandale, Incorporated.

Now, the Congressional intent of RICO, which the Martino case ignores, is that the statute was to enable law enforcement officials to punish individual criminals and also to separate the corrupt interstate enterprise, separate them from the corrupt interstate enterprises in which they are involved from their criminal organization.

And the legislative findings which were cited in the Huber case as well as Elliott indicate that the legislative purpose was to deal not only with the individual but to attack economic base through which these individuals constituted a serious threat to

interstate commerce in this country.

Now, applying the law to the forfeiture before this Court, the United States, first of all, distinguishes Martino. It is a 1962(c) case. This case before the Court and the McNary case are the only 1962(a) cases that have been reported before today's date. The Martino case has absolutely no impact at all on the forfeiture in Count 15, the Sea Inn.

I would, first of all, distinguish there.

Mr. Sonnett indicated in his argument that the findings made by the Court were incorrect, that there was not a sham transfer. No facts have been addressed to that.

I would challenge his assertion to the contrary that the Court should reverse its findings.

There was ample proof here that the defendants had maximum control over the corporation. They received several hundred thousand dollars from corporate surplus accounts. Even though they were not stockholders, they controlled that corporation.

Thomas Romano put the stock in his wife's name while these divorce proceedings were going on, and the Court may well recall she didn't know that she even owned the stock until he said, "I want to buy it and have it transferred."

"To whom? To me?"

"No. To Louima."

It was a sham and it was a pure fraud that the wives' names were used to begin with.

Additionally, the jurors found in this case that the defendants had invested this racketeering income into the enterprise, and there is--under the Glasser case, the Court again is required to accept that finding and all the inferences which can be drawn from that in the Government's favor.

The cash trades that were portrayed by the United States through accounting experts and also through the charts was dramatic. It was a direct chain link proof.

The other cases which indicate what connection must be shown between income and an enterprise only say that you have to show a nexus or a connection.

Here the Government laid it out from start to finish, all the way through. We just drove home on it.

The Parness case and the McNary case have such a low threshold that the Government is well above that in its proof in this case.

The terms of the jury convicting the

defendants on Count 15 indicate that they accepted the proof that the defendants had racketeering income, that they had committed a pattern of racketeering activities and from that they derived income and they used income to acquire an investment.

And the Thevis case speaks in terms of acquiring an interest, and reading from 474 F.Supp. at 142, it indicates that the interest is akin to a continuing proprietary right in the nature of a partnership or stock ownership or holding a debtor claim.

Certainly this is exactly what we have here. They purchased an investment interest in that business, and through the course of time, that investment interest appreciated and grew. It was not a profit.

The United States here did not seek profits from the restaurant, which would be seen in terms of moneys obtained from the sale of food or drink.

That investment grew and appreciated. I would distinguish the two from profits. The defendants had a forfeitable interest, and I challenge Mr. Sonnett's argument that Louima had a legitimate interest in this property.

The defendants were convicted of making investments as late as May of 1976. They then engaged

in a series of sham transactions to transfer the stock ownership and other manipulations to try to divert the proceeds. And I do not want to belabor the Court's attention on that, and I think I will just pass on that.

The defendants have not produced any proof to show that they had any legitimate rights to it. The defendants had no legal right to that, and it would be totally unjust and unfair to allow the defendants to retain an interest that is built upon the gains obtained from fraud.

If this were a bank robbery case, certainly it would be an analogous situation. If the Government found the money wrappers in the defendants' pockets, I am sure that the Court would certainly not allow the defendants to maintain that, even though they put forth that.

The profits issue, per se, in Count 15--the Court in Turkette as well as in Marubeni and Thevis speaks in terms of profit as in terms of deriving from its legitimate business activities of the enterprise.

For example, the Marubeni case was a case where the corporation acquired various bidding rights to place telephone cables. That was the fraudulent transaction. That was the corporate activities of the enterprise.

Once they obtained those contracts, they engaged in the normal course of business in buying and selling cables, and the Court said, "You cannot forfeit those profits. Those profits had no relationship whatsoever to any crimes, the crimes that had occurred. They had ceased, the criminal activities of the corporation were over."

And in Thevis, similarly, they tried to get profits from the sale of pornography. The Government there did not say, "You were coercing people into the pornographic business," or, "You were selling pornorgraphic films."

There was nothing criminal in the Thevis case at all. As far as selling pronography, it was a legitimate business transaction.

And here the distinction is the Government is not seeking profits in terms of the defendants' $500 a week management fee that they were entitled to receive for operating the business or any profits that they were to receive under the limited partnership.

If that were the case, the Government, I believe, would have to concede that Marubeni is controlling and I think we would have to give up any right of forfeiture of properties. We don't have the profits.

The Government here is seeking control

acquisition, moneys derived directly through crimes, and Marubeni and Thevis don't hold on that.

In fact, the Thevis Court indicated that the Government's forfeiture allegations on those portions of the indictment would be allowed to go to the jury, and they did go to the jury.

The allegation that Mr. Sonnett raises about the in personam aspect of the crime, the Court certainly does not sit in a void.

The Turkette decision indicated that the statute should not be construed to arrive at an absurd result.

This Court sits with all the powers of a court of equity and should not be blind to the various equitable remedies that have been addressed by the Government as in its brief before. The defendants had a right, had an interest that was forfeitable. It was passed on to Louima, and the defendants have just engaged in a sham to transfer that asset to her, the equitable right attached at the time that they engaged in the crime and engaged in the transfers.

And it would be unjust, again using the theories of restitution, to allow the defendants to retain that.

We would ask the Government's forfeiture

on Count 15 to be maintained.

Moving onto the check proceeds, the arguments on Counts 1 and 6, the Martino case, the Government's argument is based essentially on the concept that the defendants cannot legally acquire an interest in a legitimate enterprise, and Mr. Sonnett quoted at great length Martino's decision paraphrasing of a Justice Department position by the ill-remembered Mr. Kleindienst in which he indicated that the Justice Department could not acquire an interest.

Well, Mr. Kleindinest was wrong. That's what the United States Supreme Court said in Turkette. The Government could forfeit interest in gambling businesses, could seize and forfeit interests the defendants might have in other enterprises which were wholly illegal in nature.

That's exactly what we have here, an association of fact of two defendants to commit a series of crimes to commit frauds.

The Thevis case additionally indicated in its holding that it saw no problem with acquiring an interest in an illegal business, and the Thevis Court indicated in 1962(a) or in a criminal case they could properly arrive at forfeiting the defendants' rights in a completely illegitimate business.

The Martino case cuts against the holding of another panel decision of the Fifth Circuit in Rubin.

Rubin specifically held that Congress contemplates forfeiture of any ownership or investment type of interest a defendant might hold in an organization he had conducted through a pattern of racketeering activity.

The enterprise here is the defendants--they have an interest in that enterprise. They conducted the enterprise through a series of fraud embellishments.

Rubin clearly holds that interest is forfeitable to the United States.

Turkette specifically went out and emphasizes the Congressional intent of the legislature in the United States in formulating RICO, and quoting from Turkette, it indicated that:

"The aim of RICO is to divest the association of its ill-gotten gains."

That directly flies against what Martino said. I think that if the Martino panel had Turkette before them when they offered their own opinion, they would not be able to arrive at the same result.

I think certainly Turkette was avoided

by Mr. Sonnett for that exact reason.

Turkette strongly supports the Government's position on forfeiture. Turkette indicates that the goal of RICO was to attack the economic base of a defendant in both legitimate and illegitimate enterprises. And that is what we have.

In Count 15, the Government should go in for forfeiture of the defendants in a legitimate enterprise, the restaurant.

In Counts 1 and 6, the Government is seeking the proceeds of checks which the defendants held in an illegal enterprise and in association, in fact.

In the Romano case, the proceeds here were different from those which the Government had proved in the Martino case.

In Martino, there was proof that the defendants received checks. There was no proof or any factual connection between the enterprise and the proceeds that they were to be receiving; rather, there were just individuals receiving checks.

Now, the Court will recall in this case and the Government has proven in this case a factual connection between the RICO proof and the enterprises--that the association would be receiving the proceeds of

the crimes.

In the first RICO fraud, the money was ultimately invested in the Sea Inn.

The Court may recall on the I.O.T.A. fraud in Count 1, the defendants first took the money, over $500,000, and ran it through their corporation account. They then divested that money from the corporation, using a series of bookkeeping manipulations.

After that, they kept that money intact. The money was used to purchase certificates of deposit. The money was not commingled with other things that they had available to them but it was maintained separate and distinct, and it is that that the Government seeks to forfeit. It is a distinct ownership in an enterprise.

The defendants, on their corporate records, reflected it as a loan. Again, it is a separate and distinct investment that the defendants have, and under the Thevis case, it indicates that the defendants can have a proprietary right or stock or an equitable type interest in an enterprise, an illegal enterprise, that can be forfeited.

And that is what the Government contends happened here. There was no commingling of that racketeering fund with other moneys. The moneys were

kept in its bank account, and a large portion of that money was traced by the Government into the Sea Inn, and the moneys again, the Court may recall, was kept isolated and apart for a period of several years.

It was not a fleeting matter of running the money through the bank accounts. It was kept wholly aside and apart. The defendants, I think, had the intent to treat it like that.

In the second RICO, Count 6, the check proceeds again were treated by the defendants as a loan against the corporation, Romano Brothers Limited. It was an identifiable asset of Romano Brothers Limited.

This was, again, the defendants' interest in their illegal enterprise, and again the Government seeks to forfeit that.

The distinction in the Martino case is that the individuals received checks for arsons and had no relationship to the enterprise.

In the Romano case, the defendants received monetary interest through the enterprise, through the corporations that they demonstrated, taking them out as loans, isolating the money. The enterprise received the money.

In Martino, the individuals received the money.

Here the enterprise is associated with the maintaining and the specific, identifiable aspects of the money, all the way through. That's what the Government thinks is particularly distinguishable, plus the fact that, again, Martino cuts against the Rubin decision. It cuts against the latest intent of the Congress, and it also goes against the Turkette decision.

The defendants' interest, as qualified in Turkette, can be forfeited, that there is an economic base that can be sought.

Certainly the economic base that the Romanos had here in the Sea Inn, as well as in their investments in the illegal enterprise, are subject to forfeiture.

The defendants committed their acts in this case as opposed to Martino through the enterprise. The enterprise acted not that the individual acted. The enterprise received the criminal fruits.

And, again, the facts before the Court--the Court recognized that each of the defendants had a fifty percent or equal interest in the enterprise.

Finally, just applying Turkette to construing RICO against the natural purposes designed by Congress to arrive at an absurd result is not the intent

of the statute, not the intent of the Supreme Court, to deny the forfeiture to unjustly enrich the defendants. It would be to deny the Congressional intent to attack the economic base of the defendants, and the United States would ask the Court to deny the defendants' motion for re-consideration of forfeiture and to re-affirm its order entered previously on May 8th of this year.

Thank you.

MR. SONNETT: Just briefly, your Honor, I must respectfully observe that, from my position, Mr. Deichert misreads not only the Martino case but the Thevis case and the Turkette case.

First of all, with respect to the differences between Martino and the case at Bar, there are none.

At Page 8240 of the Martino slip opinion, they described what the enterprise was there. They say:

> "The indictment charges that a group composed of insurance adjusters, homeowners, promoters, associated for the purpose of committing arson with intent to defraud fire insurors."

There was no business entity. This was a group of per-

sons associated to defraud.

If your Honor will turn to Count 1 of the indictment in the case at Bar, at Paragraph 5, the enterprise here is defined as a group of individuals associated, in fact, to defraud Martin Kane, K.R.R. and I.O.T.A. Industries. It is the same thing.

Mr. Deichert tries to indicate that Turkette has some effect on the decision that must be made here that is beneficial to the Government, and it does not.

Since he read from Turkette, let me read one sentence which, I think, clarified the difference. At 29 Crim.L. 308(a), the Court talks about the fact that the statute was aimed at preventing racketeers from investing or re-investing in wholly illegal enterprises and from acquiring through a pattern of racketeering activity wholly illegitimate enterprises, such as an illegal gambling business or a loansharking operation.

The difference here is that in Thevis and in Marubeni and in Martino the Court draws a very clear distinction between what is an interest and what is fruits of the activity itself.

The Court in Thevis, which is--I am going to pick up just where Jim left off because he read the

definition of "interest" from Page 142 in the Thevis case, and the very next paragraph says that:

"This distinction between income and interest was recognized by Congress, is illustrated by 18 USC Section 1962(a). That subsection makes it illegal to invest income derived from a pattern of racketeering activity by acquiring an interest in an enterprise.

"Though Congress recognized that income and profits could be generated by a pattern of racketeering activity, it chose to require forfeiture only of the interest in and not the income of a Section 1962 enterprise.

"One other factor,"

says the Thevis Court,

"convinces this Court that the limits of forfeiture authorized by 18 USC Section 1963 do not embrace fruits or profits derived from the operation of a Section 1962 enterprise,"

and they go on to talk about 1963(a)(1) which your Honor had expressed before.

That section is directed at interest

acquired or maintained in violation of 1962.

The statutory concept upon which 18 USC Section 1962 rests is the enterprise concept; that is to say, it is the acquisition, maintenance or participation in an enterprise through a pattern of racketeering activity that is proscribed under that section.

> "Since it is the addition of the enterprise concept which distinguishes the RICO prosecution under Section 1962 from an ordinary prosecution directed at each of the individual predicate acts which constitute the pattern of racketeering activity, this Court is convinced that the interest subject to forfeiture under 18 USC Section 1963(a) is limited to the interest in the enterprise and does not extend to the fruits or profits generated from the enterprise."

Now, that's what was adopted by the Court in Martino, and Martino goes a little further in their explanation.

They point out:

"Furthermore"--

this is at Page 8275 of the slip opinion--

"had Congress intended to include fruits

and profits, it could have specifically provided for such, as it did in the Comprehensive Drug Abuse Prevention Control Act of 1980 passed by the same Congress has the same meaning as RICO.

"21 USC, Section 8482, 'Any person who is convicted under Paragraph Subsection (1) of engaging in a continuing criminal enterprise shall forfeit to the United States, (a) the profits obtained by him in such enterprise.'"

The Court says:

"We are convinced Congress did not intend to include in the forfeiture provision of 1963 the fruits and the profits obtained from a pattern of racketeering activity."

Your Honor, I submit to you that while Mr. Deichert is correct that Count 15 deals with 1962(a), I can't find a whole lot of comfort in Martino.

With respect to Counts 1 and 6, Martino is absolutely controlling.

The argument I made on 15 stands. I know how your Honor is going to rule on that.

But I think in light of this very recent

case of Martino and the absolutely controlling nature that it has that the Court must seriously consider vacating his judgment of forfeiture in Counts 1 and 6.

MR. DEICHERT: I can say two sentences.

THE COURT: I just like-- I don't have redirect and recross and all that kind of stuff. I don't have any rebuttal on there or surrebuttal. That would be it.

All right. I am prepared at this time to deny your motion, Mr. Sonnett, and I will give a brief written order with reference to the request.

I will allow the forfeitures as reviously set out by the Court to be maintained, and, as indicated, a brief order will be prepared that will recite the reasoning of the Court, at least insofar as the new matters that have arisen, more specifically the cases cited by counsel up to this time.

All right. Then I am prepared to go forward.

Are there any other preliminary matters prior to sentencing and final disposition?

MR. SONNETT: I do not believe there are, your Honor.

THE COURT: That being the case, if you will come forward with the defendants, I would appreciate

it, and if the Government would come forward.

Let's take Mr. Thomas Romano first. And is there anything to be said as to legally whether or not we should go forward here today, other than those matters that have been expressed to the Court at this time?

MR. SONNETT: No, your Honor.

THE COURT: Mr. Deichert, is there anything as to the legality of final disposition?

MR. DEICHERT: No, your Honor.

THE COURT: Then, Mr. Sonnett, I invite you and your clients and anyone else that may have something to say in mitigation or elocution and/or the Government in aggravation or mitigation, if they will--

MR. SONNETT: These comments probably will be my briefest of the day.

Let me make first just one or two remarks that I think will apply with equal force to both defendants.

The pre-sentence investigation clearly points out that this investigation stemmed directly from an investigation of one Anthony Provenzono with the connection of the disappearance of Jimmy Hoffa.

To the extent that there is any insinuation in the pre-sentence investigation that these

gentlemen have any knowledge or any participation in any of those events, and there doesn't seem to be any-- obviously they deny it--and I would point out to the Court that they have both been interviewed and offered their positions, that they have no information or complicity or knowledge of any of that which may deal with that aspect of the Government's investigation, and both Romanos, I believe--I certainly know Thomas Romano offered a long time ago to submit to a polygraph examination on those points.

THE COURT: Let me make it very clear to you and the Romanos that innuendos and references about matters that cannot be asserted are of no moment to me.

They stand here, having been convicted in this court, and the matters that I am more specifically interested in are background matters that are easily ascertainable and can be seen.

I have had an opportunity since we began the proceedings here to reflect on the Amityville undertaking that they had. That's identifiable. I can see something. They built some houses and they were biracial homes in an era, I guess, when that was not supposed to be.

But I don't know why Jimmy Hoffa is in

this thing. I don't believe they know where he is. I know damn well if the Government knew, someone would be indicted. That doesn't influence me at all.

MR. SONNETT: Your Honor, I raise that because the pre-sentence investigation does contain the quote, curiosity of the Government, end quote, about real estate transactions that took place with Provenzono but the Court knows--

I wish I could sell my house for only $20,000 under the price I am asking for it. And in 1974, I dare say that the assessed valuation on the tax rolls was a whole lot more than under what the market value was.

THE COURT: If Mr. Provenzono wanted to sell me his house and I had the money, I would buy it. That's my business. And I think the Romanos had that right. It doesn't influence me at all.

MR. SONNETT: That's the extent of what has been whispered in this trial with regard to organized crime.

And, of course, when we think of RICO, and the Government talks at great length about the legislative history of RICO, we think of organized crime.

What we have before the Court today is

that Mr. Thomas Romano is a man of sixty-five years of age who has never before this incident been in any kind of a problem, who had a very distinguished career, and your Honor has had an opportunity to see some of the things that he has done and to look at some of the letters from people who are friends and colleagues who have submitted them on his behalf.

He received national awards for his work back in 1950 in those scrapbook clippings that you looked at.

He was a successful builder up North and down here, and there was never a whisper of scandal and never a whisper of illegality.

I must repeat just one time again that this case never should have been a RICO, whether or not the Government has ever been able to sustain it on appeal, and I don't think the Court should sentence it like a RICO.

The Court should look at a man who has had an exemplary life; who has two lovely children who are close to him who are in court; who is in poor health; who has an eighty-eight year old mother that he has now had to move in with him because of the poor state of her health.

And the Court should also look at what

other kinds of punishment will arise as a result of this case.

And I think it is appropriate at this juncture to talk about civil litigation and to talk about the orders of forfeiture that your Honor has now affirmed.

This was--no question about it--a pecuniary crime, if it be a crime, and your Honor knows that both of these defendants have insisted upon their innocence from the beginning, but they both realize that we stand before your Honor convicted and your Honor must, accordingly, pass sentence.

Judge, I firmly believe that with respect to both Thomas and Frank Romano that there can be no good that can come of incarceration in this case. I ask your Honor to place Thomas Romano on probation, and I ask your Honor, in light of the substantial nature of the forfeiture--

Do you want to sit down?

THE COURT: He can sit down.

You are going to get an opportunity to say something, if you want to.

MR. SONNETT: In light of the substantial nature of the forfeiture, the substantial nature of the impending IRS litigation and the exemplary life

Mr. Romano has led, not to impose either jail or a fine in this case. I think a period of probation, in light of the other orders of the Court, is appropriate and will best serve the administration of justice and no more is needed in this case.

THE COURT: All right.

Do you want to speak?

DEFENDANT THOMAS ROMANO: I feel my attorney has said everything that should be said.

I would like some day to get together with Jim and have him show me where I made an error, if I made an error, because I still disagree with the Government whole-heartedly.

THE COURT: All right, sir.

MR. SONNETT: Your Honor, with regard to Frank Pomano, Frank is just five years younger than his brother Tom.

Again, his life has been exemplary. He is a decorated war hero, married thirty-eight years to the same woman, three lovely children.

He again has had a substantial impact put upon him by virtue of the forfeitures that the Government has successfully sought by virtue of the civil litigation, to which I will be a part, and by virtue of the disgrace and humiliation that this has

brought upon him, he, like Tom, has really lived under a non-judicial probation for five years since this investigation began in 1976 and for two and a half years, since the indictment was returned--and I say the same thing with regard to Frank--that incarceration or substantial fines--and I know what the totals are for all these counts--serves no purpose here, neither as rehabilitation nor a deterrent nor punishment.

I ask the Court, with respect to Frank Romano, to place him on a period of probation and not to levy any kind of incarceration or fine.

THE COURT: All right.

MR. SONNETT: Frank, did you want to make any statement?

DEFENDANT FRANK ROMANO: No.

THE COURT: All right.

Mr. Deichert?

MR. DEICHERT: Your Honor, the United States is mindful in this case of the Court's rule in sentencing, and I don't wish to redress the facts before the Court.

The defendants have been convicted of twenty-one counts of various crimes, and the Court well remembers the trial.

What I would like to do is bring up

some activities that the defendants did engage in that were not crimes but do indicate the defendants' intent and do, I think, shed some light on the character letters and on the defendants' true characters and how they acted in this case.

This crime lasted from beginning in June of 1974 until at least as late as May of 1976. After the last fraud scheme occurred, the defendants tried to conceal the wrongdoings from various Government agents, of which they are aware, as early as 1975 when they received Grand Jury subpoenas.

During this period of time, they documented various bookkeeping records in their own business, took other additional acts to try to shield various property interests that they had from the Government.

I don't give them as much ingenuity as perhaps Mr. Sonnett would, that they knew of the pending boom of RICO coming in on them, but they were extremely cognizant of the IRS and other Government actions that could be taken against them, as well as civil suits.

They were under civil suits at this time by the Teamsters.

The Court may recall, in addition to the

RICO income, $234,000, that the defendants moved to the Sea Inn of Hallandale, and they transferred other assets into Louima's name, they also concealed and dissipated assets from the RICO fraud.

The Government has not traced in this case $800,000 in cash. The Government was unable to find in this case $128,000 in income tax refunds that these two men obtained by fraud, nor the $110,000 in cash that was seized from the safety deposit box that we had to return to them.

Where are those moneys?

The Government's list on their assets, the schedule of assets, in the probation department--$10,000 in the bank, I believe, in Thomas Romano's schedule, $80,000 in Mr. Frank Romano's name.

That leaves a substantial amount of money unaccounted for.

There are some other actions that I think the Court may well recall that involve the crimes where the defendants' actions in deceiving numbers of innocent persons, in manipulating people to help them in the commission of crimes. CPA's were mislead in this case and bank officers were mislead.

Almost every witness that the Government brought before the Court indicated they had been de-

ceived or used in one way or the other.

The bank president had indicated he had been told that the checks were going to be brought in as an accommodation to the sub-contractors.

Freeman had indicated--he had told the accountant that the Romanos said, "We have no lien and we are not going to go ahead with the balance."

He offered a key letter that was instrumental in deceiving I.O.T.A. into giving away the property.

The particular use of these innocent parties to bring about the case--the bookkeepers, for example, were told to make up releases of liens in nonexistent persons' names, notarized them in blank, and all of those papers give the fraud the apparent appearance of a business, the apparent aura of an authentic business transaction.

THE COURT: Mr. Deichert, how innocent do you think the Teamsters Union in New Jersey that was involved here and the gentleman that came down to testify for the Teamsters, as I recall, that had been with them since water came into existence, just about--how innocent do you think they were?

MR. DEICHERT: I think they were innocent, your Honor.

THE COURT: You don't think they knew anything about what was going on?

MR. DEICHERT: I think ultimately there came a time, your Honor, they suspected.

I think Mr. Curran went through probing cross examination of them and failed to discover anything.

THE COURT: Right. And the Teamsters are not as dangerous as people make them out to be, because the Romanos would not be standing there, because, if they were as dangerous--how innocent do you think Martin Kane is?

MR. DEICHERT: Martin Kane is not on trial.

THE COURT: I just asked you a question. You talked about them manipulating innocent people, and I am curious as to how many innocent people may have been manipulating them.

I know he is not on trial.

MR. DEICHERT: He was out of the transaction at this time. I think he was duped. I think the cross examination showed that he realized they were negotiating with the Teamsters.

But as far as having actual knowledge of that, I think the jury clearly voted against that and

that he was innocent of that.

THE COURT: I was here, too, and I don't believe it is in a vacuum, but go on with your argument.

MR. DEICHERT: For example, if Mr. Kane had--the only reason he gave was he would have gotten a portion of the profits.

So, some of the other acts Mr. Sonnett has referred to the defendants are solely as acts in a business-like manner.

I ask the Court to recall the proffer that the United States made of Mr. Simmonet's testimony. He was the CPA who interviewed Mr. Thomas Romano in connection with the business acquisition. This is what Mr. Thomas Romano told him how he ran his business:

He indicated that he wasn't concerned with union problems because he knows the union officers well. He indicates that the high travel and entertainment expenses included in the books and records include pay-offs to cities and counsels of $500 to $1,000 a shot. He also indicated to Mr. Simmonet that he pads loan requests to get faster pay-downs. And in connection with the recreational leases, one of which was valued at half a million dollars and the other one was

valued at $510,000, he indicated he would sell them for $400,000 under the table.

I think that's the type of man who was convicted by these jurors, and that's the type of man that this defendant is.

The other type of proof that was offered at trial--the defendant admitted on the stand, Thomas Romano, that he had back-dated the finder's fee agreement to give it the appearance of a legitimate agreement.

That was $300,000 for finding a purchaser of a 1.1 million dollar recreational lease, and that is totally out of hand with any type of normal business channel, and it was important to back-date that agreement so it would come before a newspaper ad was placed in the Wall Street Journal and in the New York Times.

Now, the defendants' own admission in the interrogatories that they gave to the Teamsters in May of 1978--and this was signed by both defendants--and I would just like to read one paragraph. This refers to taking the money, the fifty-eight sub-contractors' checks.

"One of the reasons we took this money is that any time a loan is made

from the Teamsters, there is always a rumor there may have been a kick-back. I began to realize that a profit was going to be shown. This was prior to our thinking about going from a condominium to a rental. I wanted to prepare myself so I would have the necessary funds to meet such demands as this.

"At this time, I felt there was the possibility that this demand might be made upon me due to the fact the Teamsters had become cognizant there was going to be a profit and due to the fact they knew I was going to be taking these moneys out as sub-contractors.

"However, I was never approached for any kind of a kick-back."

The defendants were willing and amassed a war chest to kick the money back.

When that never came, according to their own sworn deposition, they just pocketed the money.

That's the kind of men that are before the Court this morning on sentencing.

The United States would ask that a custodial sentence be imposed for the following reasons:

As a deterrent, number one. Secondly, because of the punishment effect on the defendants. And, thirdly, and perhaps more importantly, the impact and the magnitude of the offense on society.

The defendants here embezzled over one million dollars from a pension fund. The victim here is not any Teamster. The victim is not Tony Provenzono who sits serving life imprisonment. The people who are denied pensions--this fund lost one million dollars.

The Court could look through the minutes of the pension fund that were introduced into evidence and see that the fund was substantially diminished and substantially affected by this, and there is no doubt that innocent persons who were the beneficiaries of the trust fund are the true victims of the case and not the Teamsters but the beneficiaries of the trust.

The United States Government was victimized in this case, losing over half a million dollars in tax revenues from the defendants in the two years that Thomas Romano failed to pay his proper income tax. He saved approximately $250,000 in taxes. In the two years that Thomas Romano filed false tax returns, he saved approximately $210,000 in income taxes, plus the Court may well--each defendant received over $60,000 in fraudulent refunds in the case.

The defendants, I would submit to the Court, still show no remorse for the crimes. I submit that the defendants' activities in taking the stand--Thomas Romano, in taking the stand and perjuring himself in the face of the submission of financial statements, shows the man's character. It shows that the man is not deserving of an abundance of mercy by this Court.

In the overriding consideration of the racketeering in this case, the United States did not put in a pre-sentence report that these men were connected to the Jimmy Hoffa investigation.

The Hoffa investigation and the inquiry on the pension fund itself were the focal point that started the investigation.

The United States importunes no evil connection between the defendants and anything in that regard. I wanted the record to be clear on that. It is not my intention to bring that up.

The RICO in this case is mandatory. I think it would be an overly gracious extension of mercy for the Court to consider the impact of the RICO in mitigating sentence.

The defendants here are not being stripped of any personal property. They are being

stripped of what they stole. They are being stripped of what they obtained by fraud.

The forfeiture here does not take away any of their properties. It restores them to the status quo that they enjoyed, the position of wealth that they had or poverty prior to 1974 when they began these frauds.

All the United States is asking in the RICO forfeiture is that the clock be turned back economically on the defendants' interest, and the Court had upheld that position.

That the defendants are being punished by the RICO is to say they are being forced to give back ill-gotten gains--the argument is ludicrous.

The United States appreciates the position that the Court has in this case. We do not ask for any specific sentence.

The United States is mindful of the power that is entrusted with a sentencing Judge.

We ask respectfully that the Court consider--and I know the Court has considered all the facts in this case--and do justice to both the Government and the defendants.

Thank you, your Honor.

THE COURT: Thank you.

Mr. Sonnett, do you have anything else to say?

MR. SONNETT: I am going to stifle myself, your Honor, taking Archie Bunker's advice.

THE COURT: Well, needless to say, as now kind of a seasoned District Court Judge, these matters are not as difficult for me as they have been on other times.

On the other hand, the Romano case is one that I have gone back and forth with in my mind.

Perhaps in a way, certainly there was only one other case that I dealt with that I gave as much attention to when it came to determining what, if any, sentence is proper, and I am not sure that any of us know what, if any, sentence is proper.

I do feel that both of you gentlemen stand convicted here in the court, and I have, as an objective, but one thing: To assert for both of you-- and I don't believe many of the assertions that the Government offers with reference to a deterrent. People are not deterred by what other people do or what they receive in court, unless it was going to be that all people are going to receive the exact same sentence. Then, I think, that would certainly serve as a deterrent, but only on a handful of folk who are likely

to violate the so-called RICO statutes are likely to be deterred in any fashion by what I would impose, large or small, at least in my considered opinion.

I keep hearing that argument, and I am trying to understand it, because crime keeps increasing, and I want to know, then, all of us who are sending people to jail, just how many of them are being deterred by other types of pure punishment--I wish that to be understood--if the punishment then allows for deterrents or then it will occur.

I don't feel that the magnitude that the Government places on this case is such that I wish to--I am not giving any mitigation to the defendants or both of these gentlemen or if Mr. Deichert and Mr. Sonnett were here before us and lived, at least insofar as any criminal violations are concerned, rather exemplary records long before they got to the posture of being indicted in this specific case--the presentence report on both of them, at the point of any previous crimes, raises no prior record--and I don't know whether that means that when a person gets indicted under the RICO statute that they are not to be given any consideration and, if that is the case, then let the record reflect that I gave the defendants some consideration for having no prior record, and that is

both of the defendants.

As to the kind of sentence to be administered, let me make it very clear, I think both of you gentlemen have lost a great deal already, and I don't have any doubt in my mind but that is true.

The things that Mr. Deichert indicated may very well be true. I can't reach that because I don't know what you did with other moneys that they couldn't find or other tax considerations that have not been settled at this point in time.

I do know that you still have a high hill to hustle in terms of other types of litigation that have been spawned either from this or would have come forth or did come forth prior to this action.

I am not long on lecturing people that stand before me that are charged with crimes.

I was not the jury that convicted you, and I did everything I could, in spite of your fine lawyer's admonitions concerning the potential for error, and that is distinctly possible, and if it is so, then I am sure that a reviewing court would undertake to point out to the Court where I did things that were not within the confines of the law or, at least, were considered to be error insofar as the law is perceived by me and/or may be perceived by someone

else.

I do feel, though, that I did carefully handle most matters as they pertained to the two of you in a fashion that persons who come in here on one or two-day trials perhaps do not get.

~~It is an~~ uncomfortable position that people get in, and I think that the psychology of trials is something that few, if any, people are paying any attention to.

I can genuinely say during the course of this trial that there were no persons that came into this courtroom that did not act in a gentlemanly fashion, and the same that I assert for any persons certainly holds for the defendants.

And it is a difficult posture that a Judge finds himself or herself in in having to sentence people that I learned to like.

During the course of the trial, I found nothing to cause me to feel like you all are the scourge of the earth, and I see Judges continuously saying to people all sorts of things about their habits and backgrounds and what-have-you, and I found this to be a refreshing, although very boring at times, trial. Boring for no other reason other than the fact that the documentation aspect against the psychology of

which is something that we need to pay a lot of attention to--just how do you stop people from going to sleep with so many documents being placed into evidence, what understanding is placed on those kinds of considerations, just how much should we expect of lay people to understand on things that are going to come into question.

And I think this kind of case calls into question skilled lawyers on either side who are mindful of these things.

It is just that it is not often that a Judge says anything about it.

I also don't, as I said to Mr. Deichert about Martin Kane, I don't think either of you gentlemen are Rocky's to the business world, and I do believe that you are not dealing with Rocky's because, to be very honest--and while I am not taking that into consideration as far as the ultimate decision is concerned, I do feel and I think it is warranted that I should say this.

You were convicted under the RICO statute, and I have read prior to your trial, during your trial and since your trial, including the most recent decision, the Turkette decision, and I still think that there is an abundant amount of confusion in

the United States of America as it pertains to the RICO statute, and if that confusion ultimately is cleared up, then this case may very well be one that will assist in manifesting its clearance.

Whether or not it is needed--I desperately think that it is, and I can't stand to sit here and recite for you all the litany of the cases that I have, the Law Journal articles concerning matters, but I do know this: That there are some worse offenders. There are some offenders that are worse than these two gentlemen in this Court's considered opinion who could be charged with RICO statute charges who are not, and here we are now dealing with folk who obviously are not as dangerous as RICO seems to suggest certain people in our society are.

It is amazing to me that somehow or other we tend to go after a certain entity of society. I am fascinated with how certain cases wind up being RICO cases. I am waiting to be educated on that.

I am sure the Courts will educate me.

There's a whole bunch of matters, and whether or not RICO overreaches to defendants of this kind or who are typical in terms of the overall record--racketeering activity--may have been associated with some people that are accused to be racketeers needs to

be cleared up and folk need to stop playing semantic games, or in statutes, for example, if Congress intended something, then they ought to just say that and not have us going around and around on interest acquired, income versus an interest, and all sorts of things that obviously leave lawyers an abundant amount of room to point out that Judges like myself have made error by not being able to understand what Congress intended when Congress didn't understand what it intended.

I have not said very much, and I certainly didn't intend it as a lecture to you. I offer nothing with regard to your background and/or what I think my sentence may well do, other than the fact that I think it is merited under the circumstances, and for that reason as you both stand before me convicted, let the record reflect that as to all counts, Mr. Thomas Romano, since I took the information with reference to you first, I adjudge you guilty as to each count set forth in the indictment.

As you well kmow, each of the provisos in that indictment carries with it some rather severe penalties, and I do believe that it merits at least a custodial type of response from me.

As to Count 1 of the indictment, Mr.

Romano--Thomas Romano, that is--I am going to commit you to the custody of the Attorney General or his authorized representative for a period of three years.

As to each, Counts 2 through 15, 16 and 18, I am going to commit you to the custody of the Attorney General or his authorized representative for a period of three years, and these sentences--that is, Counts 2 through 15, 16 and 18--are to run concurrent with one another and concurrent to the sentence imposed in Count 1.

As to Count 20 of the indictment, I at this time adjudge you to be guilty of same, and the imposition of sentence of confinement is to be withheld and you are placed on probation for a period of three years.

I further offer that that probation will begin upon the expiration of the sentence imposed in Count 1.

I also suggest, in light of the fact that the pre-sentence investigation reflects it--and I believe Mr. Sonnett has even filed it, if I am not mistaken, or at least if it was filed, it was taken back and likely will be filed again, and that is the notice of appeal. But if, in the event, there is to be no appeal, then I would grant you leave to

voluntarily surrender, to be undertaken sixty days from today's date, at the arrangement of the Department of Probation and the United States Marshal's Service.

Further, this sentence is to be considered under the provisions of Title 18 USC Section 45(b)(2) and in the section of 80235 referring to comments and recommendations relative to parole, and I would ask my Deputy to let that portion of the record reflect that I have particularly, in light of the fact that the defendants have no prior criminal background or the aggravating circumstances offered here by the Government--do not reach the level, I believe, to allow they should not be eligible for early parole, and then I am of the mind that the defendants can achieve it based on whatever factors or parole considerations might be offered for them; that I feel it appropriate if they were to be given as early a parole as distinctly possible within the parameters of the sentence.

Additionally, Mr. Thomas Romano, because of your particular situation, in light of the fact that there are several doctors that do suggest that you have a history of coronary problems of sorts, then if you do arrive at the institution, it is the recommendation of this Court that you be placed in an institution where you can receive the appropriate medical treatments so

as how you can receive ongoing commitment with reference to any medical needs that are necessary for you.

MR. SONNETT: I don't want to interrupt, Judge, but I know the practical effect that is going to have is to take him out of Eglin and put him in Lexington.

While there be a hospital there, I think he can get the care that he needs at Eglin, where he would be able physically to serve any sentence.

THE COURT: Then let the record allow that the Court's recommendation is that a minimum security facility and, more specifically, Eglin and/or a medical facility--and I say "or" without the "and"--so as how if you do need it and you may that you may very well wind up in that kind of position.

Mr. Thomas Romano, you have the right to appeal all matters that have been ongoing, including the final disposition of sentence in this matter, and in the event that you determine that you wish to appeal and don't have funds with which to hire a lawyer, if you present an appropriate petition of indigency to the Court, the Court will entertain that.

I am required to say that. I know you have Mr. Sonnett representing you, who has indicated a desire to appeal, and I imagine there will be other

matters to be undertaken when I am completed with my responsibility.

However, Mr. Sonnett, pertaining thereto, I urge that you will advise your client regarding all of his appellate rights so as how no dates that are pertinent to his opportunities with reference to appeal or going forward--and I charge you with that responsibility, as an officer of the Court.

MR. SONNETT: Yes, your Honor.

THE COURT: Now, as it pertains to Mr. Frank Romano, the same basic things that I have said in my considered opinion go to you, sir.

The only slight difference would be the minimum security facility. But in an effort to not avoid or in the event you wind up in a facility, if it can be arranged, I do believe that these two defendants who have been close to each other for all of their lives or, at least, all of the life of Mr. Frank Romano--since you came last--if at all possible, should be in the same facility.

I would see no harm that could come by virtue of that, so as how they could provide whatever comfort brothers might afford each other in similarly situated confines.

Now, sir, I am going to, based on the

jury's findings, find you guilty, Mr. Frank Romano, and adjudge you to be guilty as to each and every count as set forth that you were found guilty of.

And as to Count 1 of the indictment, to which you were found guilty and I have adjudged you to be guilty, I am going to sentence you and commit you to the custody of the Attorney General or his authorized representative for a period of three years.

As to each of Counts 2 through 15, 17 and 19, I am going to commit you to the custody of the Attorney General or his authorized representative for a period of three years.

Further, it is the sentence of this Court that those sentences are to run concurrently with one another and concurrent to the sentence imposed in Count 1.

As to Count 21 of the indictment, having adjudged you to be guilty of same, the imposition of sentence of confinement is withheld at this time, and you are placed on probation for a period of three years and you are to commence the serving of the probationary period at the expiration of the sentence imposed in Count 1.

Further, you, too, will be granted voluntary surrender of sixty days from today's date or to be

further considered at such time as any appellate undertakings are finished in this matter.

If they are unfavorable and you, too, are to be considered under the provisions of Title 18 USC Section 45(b)(2)--and I have no objections to any early parole consideration that may be given, and as to the type of institution, I have already indicated a minimal security facility, and you, too, Mr. Thomas Romano or Frank Romano, have the right to appeal the judgment and findings of the Court and all of its particulars.

And if you don't have funds with which to hire a lawyer, notify the Court by way of a petition of indigency, and I will entertain same and rule accordingly at that time.

As to Mr. Frank Romano, Mr. Sonnett stands charged in the same fashion, as an officer of the court, that you are to advise him of all of his appellate rights as to the time considerations or allowing that any appeal that he has is properly undertaken.

Is there anything else to be said?

MR. DEICHERT: Your Honor, I have no objections to continuing the defendants on bail. I am sure they are going to appeal.

I think there are-- Given the state of flux on some racketeering laws that are before the Court, I think it would be punitive for the Government to ask for a denial of bail, so I have no objections to continuing the present bail.

THE COURT: The present bail of both defendants is to be continued at this time, and you will be permitted to go about your affairs, and I guess, then, the sixty days for voluntary surrender will serve as no consequence.

So, the Marshal's office does not have to undertake any further responsibilities other than--

THE MARSHAL: There is a question. That is going to be a supersedeas bond, whether or not it has to be a completely new bond--

MR. SONNETT: I will check the bond form, but the standard bond form is--they gave a ten percent deposit on a $100,000 bond, and they go through appeal--

THE COURT: All right.

Let me make it certain so as how we don't have that problem.

Mr. Sonnett, if you would report back to me, and my office will notify the Marshal's office so there is no problem in that regard.

MR. SONNETT: Your Honor, if you have the court file, I can check it right after court is over and let you know, but the original bond forms will be in the court file.

There are two kinds of forms. One says for supersedeas, in addition for trial. If it says that, there should be no problem.

There is one other thing, your Honor.

Your Honor had--

THE COURT: Do you want these to stay with the file?

MR. SONNETT: The original letters can stay with the file.

I would like to take that scrapbook back, if I may. If your Honor wishes, I can make Xerox copies to submit.

THE COURT: If you deem it will be helpful, it is all right with me.

Perhaps we should make the record speak clearer, but I thought we wanted to get the scrapbook and have it--

MR. SONNETT: Actually, since the presentence investigation normally is sent to the institution, I would just as soon have those things.

There are a few other housekeeping

matters, if your Honor please.

Your Honor had previously entered an order permitting the defendants free intercontinental travel upon certain conditions, given an itinerary within seventy-two hours and that the Government is so provided.

I would ask that you continue that travel order in effect during the course of the appeal.

THE COURT: All right. I don't have any problems with that. It will be so ordered.

MR. DEICHERT: No objection, your Honor.

MR. SONNETT: With respect to the order of forfeiture, your Honor may recall that Mr. Deichert and I haggled a little bit the last time about whether or not the notice of appeal stated or whether pursuant to the form order that the Government submitted, we had to go to the Fifth Circuit for a stay.

I know your Honor is going to issue an order, but I want to get that clarified so that I don't run into any problems with regard to the appeal.

Under the Martino case, it seems clear that two separate notices have to be filed. So, I will file a notice of appeal from your Honor's order. I am assuming it will be within the ten days anyway, but I would ask that your Honor stay the effect of the

previously entered forfeiture order pending appeal, particularly in light of what I think everybody agrees are justiciable issues.

MR. DEICHERT: I have no problem on staying it, your Honor.

I would ask that the obligation imposed on Louima Romano to contribute the difference between the money she receives on the mortgage of some $6,500 monthly and the obligation that they have on the underlying mortgage, some $2,000, be continued. In other words, she has a current obligation to pay the difference, some $4,000, into a trust account being maintained by Mr. Sonnett as an officer of the court.

I would ask that be continued.

THE COURT: All right.

MR. SONNETT: We have no objection to that.

THE COURT: Then the stay will be allowed, and if you will incorporate that as part of your proposed motion and notice and send me an appropriate order, I will sign it.

MR. SONNETT: There is one other little housekeeping matter.

Part of that order of judgment and forfeiture provides for a financial statemsnt to be

submitted within fifteen days and allows the Government to take depositions in aid of execution.

I assume it is the intent that all of those things will be stayed until such time as these issues are resolved on appeal.

MR. DEICHERT: I would like to be heard on that, your Honor.

The United States here stands in the position of having an 800 something thousand dollar judgment and not being able to do anything in the interim to collect it.

The statute of limitations on all the credit activities, I believe even with regard to other new RICO activities, will be blocked.

Should the defendants make any statements that would incriminate themselves and others--

THE COURT: I see no reason for stopping depositions or the filing of the financial statements.

If the appeal lasts for longer than a year or two, the defendants are free to continue to maintain some $800,000 in assets which the Government claims are properly forfeit, and I don't think it has any deleterious effect on the defendants to submit a financial statement nor to submit to depositions.

I am sure adequate protections can be

made for them.

MR. SONNETT: I am not sure I understand the logic to that.

THE COURT: You make your motion in writing and brief it quickly, and you will respond most immediately to that particular aspect, and I will rule on it.

MR. SONNETT: Maybe we can work that out.

It seems to me if the forfeiture is stayed, it doesn't do the Government any good to take a deposition because they can't go after the assets anyway.

MR. DEICHERT: We could get another temporary restraining order or another restraining order from moving those assets or else the assets could be continued to be manipulated and moved by them, as it has been shown before the Court--the evidence that they have--and I would like to stop that from occurring.

THE COURT: I will accept a brief, and I will rule accordingly.

MR. SONNETT: There is one other thing, Judge, and it is with respect to the Sea Inn.

As the Court knows, the corporation is

the record owner. My clients inform me that Panda Enterprises has never provided the requisite binder on showing the insurance policies on the restaurant.

The Government obviously would like to have that. We just don't know whether or not they have insurance or not.

Jim and I are trying to work together towards the same ends on this. Since the Court has already ordered a non-party to this case to do certain things in relationship to the Sea Inn, I would like to ask the Court, and I will submit to the Court an agreement to require Panda Enterprises to submit to me, as an officer of the court, a certificate of insurance so that we know whether or not they have got insurance because, if not, it may be necessary to institute foreclosure proceedings to protect the assets, both from the standpoint of view of Mrs. Romano and for the Government's standpoint of view.

Neither one of us wants to leave that loose.

THE COURT: Mr. Deichert?

MR. DEICHERT: I want an order directing that insurance be maintained to cover at least the amount of the forfeiture.

THE COURT: How can I tell Panda Enter-

prises to do anything?

MR. DEICHERT: I am not in favor of that. The defendants have an obligation from their interest, and that has been forfeited. The Court can require, under 1963, that security and guarantees be taken to guarantee that the assets be made available, and I would ask the Court to order these defendants to post sufficient insurance to protect at least that portion of the assets that has been forfeited, some $336,000.

THE COURT: I cannot walk over and insure your house.

MR. DEICHERT: They have an insurable interest in the amount receivable as to the mortgage. I would ask them to-- They have certainly an insurable interest on that.

THE COURT: I would think the Government would be interested from the same standpoint as the defendants.

If there is no insurance and if in the morning there is no Sea Inn, then you--that's called immediate--

MR. DEICHERT: The real estate is valued at $200,000.

THE COURT: You are talking about the

land without the building?

MR. DEICHERT: Yes, sir.

If need be, the United States can assert priority, but I think they have an obligation to maintain insurance on it.

THE COURT: I will give some thought to it. I don't think I have to be in an immediate hurry with that.

Include that motion as well in the proposed order.

Anything more?

MR. SONNETT: I don't believe so.

THE COURT: Good luck to you.

And I stand in recess.

[At 1:20 p.m., the hearing was concluded.]

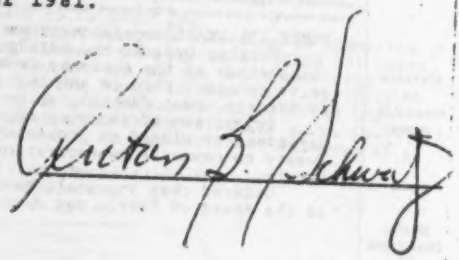
- - - - -

CERTIFICATE

STATE OF FLORIDA)
) SS.
COUNTY OF DADE)

I, ANTON B. SCHWARTZ, Court Reporter, do hereby certify that the foregoing transcript, pages 1 through 104, is a true and correct transcription of my stenographic notes of the proceedings before the Honorable ALCEE L. HASTINGS, United States District Judge, at the time and place hereinabove set forth.

DATED at Miami, Dade County, Florida, this 20th day of October 1981.



AO 245
(5/77)

United States District Court for THE SOUTHERN DISTRICT OF FLORIDA

United States of America vs.

DEFENDANT: THOMAS ROMANO

FILED by MC D.C.
JUL 9 1981
JOSEPH I. BOGART
CLERK, U.S. DIST. CT.
S.D. OF FLA. - MIAMI

DOCKET NO. 78-364-CR-ALH

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government the defendant appeared in person on this date — MONTH: July DAY: 8, YEAR: 1981

COUNSEL

___ WITHOUT COUNSEL — However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

X WITH COUNSEL — Neal Sonnett, esq. (Name of counsel)

PLEA

___ GUILTY, and the court being satisfied that there is a factual basis for the plea, ___ NOLO CONTENDERE, ___ NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of ___ NOT GUILTY. Defendant is discharged; X GUILTY.

Defendant has been convicted as charged of the offense(s) of 18:1962(c) & 18: 1963 & 2; 18:1341 & 18:2; 18:1343; 18:644; 26:7206(1).

THAD[illegible] USDJ/MAGJ

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

SENTENCE OR PROBATION ORDER

THREE (3) YEARS imprisonment as to Count One.

Further Ordered and Adjudged that the defendant is committed to the custody of the Attorney General for a period of THREE (3) YEARS as to counts 2 thru 16 and 18, all to run concurrent with sentence imposed in count One (1), as to 18 USC, Sec. 4205(b)(2).

Imposition of sentence of confinement is withheld and the defendant is placed on probation for THREE (3) YEARS as to Count (20) Twenty to commence on expiration of sentence of confinement imposed herein.

Ordered that you shall become eligible for parole at such time as the Board of Parole may determine.

SPECIAL CONDITIONS OF PROBATION

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 17

[illegible] Deputy Clerk
4/22/82

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

MICROFILMED — [illegible]ty Facility: Eglin or medical facility

JUL 14 1981

JOSEPH I. BOGART
CLERK, U.S. DIST. CT.
S.D. OF FLA.

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

EXHIBIT 7 HOUSE

SIGNED BY

X U.S. District Judge

___ U.S. Magistrate

Date 7/8/81

546

MC 188

AO 245
(5/78)

United States of America vs.

DEFENDANT: FRANK ROMANO

FILED by ____ JUL 9 1981 JOSEPH L. BOSART CLERK, U.S. DIST. CT. S. D. OF FLA. - FT. LAUD.

United States District Court for THE SOUTHERN DISTRICT OF FLORIDA

DOCKET NO. 78-364-CR-ALH

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date: MONTH July, DAY 8, YEAR 1981

[ ] WITHOUT COUNSEL — However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

[X] WITH COUNSEL Neal Sonnett, esq.
(Name of counsel)

PLEA

[ ] GUILTY, and the court being satisfied that there is a factual basis for the plea, [ ] NOLO CONTENDERE, [ ] NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of [ ] NOT GUILTY. Defendant is discharged [X] GUILTY.

Defendant has been convicted as charged of the offense(s) of 18:1962(c) & 18:1963 & 18:2; 18:1341; 18:1343; 18:644; 26:7206(1)

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

THREE (3) YEARS imprisonment as to Count One.

Further Ordered and Adjudged that the defendant is committed to the custody of the Attorney General for a period of THREE (3) years as to counts 2 thru 15, 17 and 19, all to run concurrent with sentence imposed in count One (1), as to 18 USC, Sec. 4205(b)(2).

Imposition of sentence of confinement is withheld and the defendant is placed on probation for THREE (3) YEARS as to Count (21 twenty-one to commence immediately on expiration of sentence of confinement imposed herein.

Ordered that you shall become eligible for parole at such time as the Board of Parole may determine.

SPECIAL CONDITIONS OF PROBATION

Certified to be a true and correct copy of the original
Joseph P. Russell, Clerk
U.S. District Court
Southern District of Florida
By: Gloria J. Cobbs
Deputy Clerk
Date: 4/22/82

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

minimum security: Eglin or medical facility with brother Thomas Romano.

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

MICROFILMED

JUL 14 1981

SIGNED BY

[X] U.S. District Judge S.D. OF FLA.

[ ] U.S. Magistrate

Date 7/8/81

547

MC
123

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 78-364-Cr-ALH

UNITED STATES OF AMERICA :
Plaintiff, :
vs. :
THOMAS ROMANO and :
FRANK ROMANO :
Defendants. :

FILED by D.C.
OCT 6 1981
JOSEPH I. BOGART
CLERK, U.S. DIST. CT.
S. D. OF FLA. - MIAMI

FINAL ORDER

THIS CAUSE came on to be heard on Defendants' Motion for Reconsideration of their Motion in Opposition to Order of Forfeiture.

THOMAS ROMANO and FRANK ROMANO were convicted by a jury of all counts of a twenty one count Indictment.[1/] The Indictment stemmed from the Romanos' dealings involving the development and construction of The Executive House, a condominium project, located in Inverrary, Florida. Counts one and six charged Defendants with violating the Racketeer Influenced and Corrupt Organizations Act [hereinafter RICO] 18 U.S.C. § 1961 et seq., Pub.L. 91-452, Title IX, § 901(a), Oct. 15, 1970, 84 Stat. 942, more specifically, for violating 18 U.S.C. § 1962(c)[2/] by conducting or participating in the conduct of an enterprise (a group of individuals associated in fact) through a pattern of racketeering activity. Count fifteen charged Defendants with violating RICO,

1/ Count one charged the Romanos with violating 18 U.S.C. § 1962(c), with the predicate acts, mail fraud, 18 U.S.C. § 1341, and wire fraud, 18 U.S.C. § 1343, being charged in counts 2-5 and incorporated by reference in count one. Count six charged the Romanos with violating 18 U.S.C. § 1962(c), with the predicate acts, mail fraud, 18 U.S.C. § 1341, wire fraud, 18 U.S.C. § 1343, and theft or embezzlement from an employee benefit plan, 18 U.S.C. § 664, being charged in counts 7-14, and incorporated by reference in count 6. Count fifteen charged the Romanos with violating 18 U.S.C. § 1962(a), with the predicate acts, mail fraud, 18 U.S.C. § 1341, and wire fraud, 18 U.S.C. § 1343 being charged in counts 2-5. Counts 16-21 charged the Romanos individually with various violations of the Internal Revenue Code. 26 U.S.C. 7206(1).

2/ 18 U.S.C. § 1962(c) provides that:

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 9

EXHIBIT
9
HOUSE

JUDGE ALCEE L. HASTINGS
U.S. DISTRICT JUDGE

MIAMI, FLORIDA 33101

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
UNITED STATES COURTS

SPECIAL DELIVERY

JAMES M. DEICHERT, Special Attorney
U.S. Dept. of Justice
Richard B. Russell Federal Building
75 Spring Street, S.W., Room 1348
Atlanta, Georgia 30303

United States Senate
EVIDENTIARY HEARINGS
IMPEACHMENT MANAGERS' EXHIBIT 8

RECEIVED
OCT 7 01

HOUSE EXHIBIT 8

SPECIAL DELIVERY

18 U.S.C. §1962(a)[3] by acquiring an interest in an enterprise (The Sea Inn of Hallandale) with income derived from a pattern of racketeering activity.[4]

Pursuant to §1963(a), the penal section of RICO, this court was mandated to forfeit:[5]

> (1) any interest acquired or maintained in violation of Section 1962, and
>
> (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which has been established, operated, controlled, conducted, or participated in the conduct of, in violation of Section 1962.

18 U.S.C. 1963(a)
(emphasis added)

On May 4, 1981 this court entered the Order and Judgment of Forfeiture which is the subject of this motion for reconsideration. Pursuant to that Order Defendants did forfeit:

---

[3] 18 U.S.C. §1962(a) provides that:

> § 1962. Prohibited activities
>
> (a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

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[4] A portion ($234,061.00) of the income derived from the count one RICO ($540,000.00) was used to acquire, establish, operate, and maintain an interest in The Sea Inn of Hallandale, Inc., which was found to be engaged in and whose activities affect interstate commerce.

---

[5] Forfeiture of property involved in violation of the racketeering statute was mandatory rather than discretionary. United States v. L'Hoste, 609 F.2d 796 (5 Cir. 1980).

As to Count 1 - The net cash proceeds ($305,939) of the two checks drawn on the account of 4300 Rock Island Road, Inc. which were obtained by Fraud by the Romanos.6/

As to Count 6 - The total cash proceeds ($540,000) of the 58 checks which were forged by the Romanos and obtained by fraud.

As to Count 15 - All property interests ($316,077) in the Sea Inn of Hallandale, Inc., and real estate located at 906 East Hallandale Beach Boulevard, Hallandale, Florida.7/

6/

The Government has traced $234,061 of these proceeds which were directly and indirectly used and invested by the defendants to acquire, establish, operate, and maintain an interest in The Sea Inn of Hallandale, Inc. This $234,061 is common to both Counts One and Fifteen. Accordingly, the forfeiture in Count One should be calculated as follows:

$540,000 defendants' interest in cash proceeds-Count One.

minus

$234,061 defendants' interest in The Sea Inn of Hallandale, Inc., etc.-Count Fifteen.

$305,939-Thus, the defendants' interest in cash proceeds subject to forfeiture in Count One is $305,939.

7/

The interest subject to forfeiture consists of the $234,061, which the defendants invested in The Sea Inn of Hallandale, Inc. (See Note 1 above); plus $82,016 of the gain realized by the sale of the assets of The Sea Inn of Hallandale, Inc. (See proposed findings #8-10). Thus, the total amount sought by the Government in Count Fifteen consists of a $316,077 interest of the $800,000 Note and Mortgage which is now held by Louima Ruth Romano. (Hereafter the "Note and Mortgage.) (See proposed findings #6-11.)

FORFEITURE UNDER COUNTS ONE AND SIX

The jury, in convicting Defendants of violating § 1962(c) found that the ROMANOS, a group of individuals associated in fact although not a legal entity, conducted their "enterprise" through a pattern of racketeering activity in that they, inter alia, defrauded Martin Kane, I.O.T.A. Industries, Inc. and K.R.R., Inc. (Count 1) and defrauded the Teamster's Pension Fund (Count 6). The proceeds from the two checks acquired by the Count 1 RICO were directly traced to their personal bank accounts. Additionally, it was conclusively proved that the ROMANOS received the proceeds of the 58 checks which form the basis of the Count 6 RICO. Section 1963(a)(1) provides for forfeiture of any interest acquired... in violation of Section 1962.

This Court feels strongly that the proceeds of all of the checks were "interest acquired" as that phrase is used in §1963(a)(1), the jury already making the determination that the checks were acquired in violation of §1962(c). I base my conclusion on a reading of the statute itself, congressional intent and the traditional canons of statutory construction.

The best approach to interpreting a statute is to identify a purpose behind it and interpret the statute's meaning in light of such purpose. International Telephone and Telegraph Corporation v. American Telephone and Telegraph Company, 444 F.Supp 1148 (S.D.N.Y. 1978). Additionally, where the statutory language is ambiguous and where a literal interpretation would thwart the purpose of the overall statutory scheme or lead to an absurd result, the court must look beyond the express language in order to effectuate congressional intent. International Telephone and Telegraph Corporation v. General Telephone & Electronics Corporation, 518 F.2d 913 (9th Cir. 1975).

The purpose behind the RICO forfeiture section, as succinctly stated in a recently decided Supreme Court case is "... to divest the association [the enterprise] of the fruits of its ill-gotten gains." United States v. Turkette, slip no. 80-808, 29 CRL 3086 (June 17, 1981). Further, Congress' declared purpose of RICO was "to seek eradication of organized crime in the United States... by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime." Id. at 3090. Given the plain meaning of 1963(a)(1) read in conjunction with 1962(c), which limits its scope, coupled with the stated purpose of severing racketeers from their "ill-gotten gains," forfeiture of the proceeds of the various fraudulently obtained checks would seem to be the proper course of conduct. Other courts have disagreed.

In United States v. Marubeni American Corporation, 611 F.2d 763 (9th Cir. 1980), defendants were convicted of conducting the affairs of an enterprise through a pattern of racketeering activity in violation of § 1962(c). The corporate defendant, Marubeni American Corporation (Marubeni) caused bribes to be paid to a local Alaskan official to obtain confidential bidding information on contracts for telephone cable. Marubeni and Hitachi Cable Ltd. (Hitachi) used this information to underbid their competition thereby winning the contracts. Subsequently, with the aid of the bribed Alaskan official, Hitachi and Marubeni sold only higher priced cable. The government sought forfeiture of "any and all sums paid or Payable" to either or both for their performance of the contracts. The issue presented in Marubeni was whether those monies were forfeitable interests under RICO.[8/] That issue was resolved in the negative. The 9th Circuit, in upholding the District Court's denial of forfeiture held that the term interest as it is used in § 1963(a)(1) means something

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8/ The issue as framed by the Marubeni court was "are amounts paid or payable for performance of a contract procured through a pattern of racketeering activity forfeitable interests under RICO." at p. 764.

other than income derived from a pattern of racketeering activity. In its reasoning the court relied principally on what it termed the "1% investment Exception" of § 1962(a). § 1962(a) provides in part:

> A purchase of securities on the open market for purposes of investment, and the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern of racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

The Court reasoned that since Congress established a specific exemption for the investment of racketeering income in corporate stock, where no control could be exerted over the corporation, they could not have intended the income of the enterprise in and of itself to be forfeited.

> "We are convinced that Congress intended to forfeit racketeering income only after it was invested 'in an enterprise' in violation of § 1962(a)." Id. at p. 767.

Under the holding in Marubeni, racketeers will forfeit their interest in the initial enterprise and their interest in the new enterprise which was acquired with the income derived from the first. If, after acquisition of the second enterprise in violation of § 1962(a), excess proceeds remain, those proceeds are considered to be beyond the scope of forfeiture under § 1963. Even a racketeer with a modest Intelligence Quotient will soon figure out that all that needs be done to elude the tentacles of the octopus-like Justice Department with respect to his racketeering income is to invest same in legitimate non-enterprises such as gold certificates, real estate or even government bonds. This simplistic investment strategy would

place all of the ill-gotten gains beyond forfeitability, leading to what I perceive to be an absurd result supported by neither the language of the statute or the stated legislative purpose. To extend the "purchase of securities on the open market" exception of § 1962(a) to other types of properties is unwarranted.

In United States v. Thevis, 474 F.Supp. 134 (N.D. GA. 1979) defendants were charged with violating § 1962(c). The enterprise alleged was "a group of individuals associated in fact with various corporations to operate a pornography business through certain unlawful means..." Defendants attacked the constitutionality of § 1963 for vagueness and overbreadth. In dismissing the constitutional challenge Judge Harold Murphy discussed the two pronged forfeiture provisions of § 1963(a) in relation to the section that defines its limits, § 1962. In essence, Judge Murphy judicially limited the scope of forfeitures under § 1963(a)(1) solely to substantive violations of §§ 1962(a) and 1962(b), ignoring § 1962(c). He reasoned that § 1962(a), which proscribes acquiring an interest in, establishing or operating an enterprise with racketeering income, and § 1962(b) which proscribes acquiring or maintaining any enterprise or control of an enterprise, are compatible with § 1963(a)(1) which would cause forfeiture of those "interests acquired" in violation of § 1962. This Court wholeheartedly agrees that §§ 1962(a) and 1962(b) proscribe acquiring interests in enterprises and when read in conjunction with 1963(a)(1) it is the racketeer's interest in the enterprise that will be forfeited. It would indeed be a "strained construction" of 1963(a)(1) to include the fruits and profits of those enterprises in the forfeiture given a violation of either 1962(a) or 1962(b).

Next, Thevis' analysis moves on to the effect of 1963(a)(2) on violations of § 1962. Unfortunately, the issue that was ignored and that this Court views as controlling in the case at bar is the effect of § 1963(a)(1) on a § 1962(c)

conviction. The statute provides that § 1963(a)'s scope is directed to all violations of § 1962.[9/] Nowhere in the statute or legislative history is it suggested that 1962(c) should not be equally considered. § 1963(a)(1) does not limit itself to violations of § 1962(a) or (b), but rather applies to all violations of § 1962. In light of the apparent void in Thevis this Court will discuss what it believes the effect of 1963(a)(1) on a violation of 1962(c) should be.

The proscribed activity in § 1962(c) is not the acquisition of an interest in an enterprise, as is the case with 1962(a) & (b), but rather conducting an established enterprise, be it licit or illicit,[10/] through a pattern of racketeering activity. Under § 1963(a)(1) the court must forfeit the interests acquired as a result of conducting the enterprise. Since the enterprise is already in existence the language of the statute suggests that something other than what already exists should be forfeited. Since § 1962(a) & (b) deal with the acquisition of enterprises which would be subject to forfeiture under 1963(a)(1) & (2), and 1963(a)(2) alone would cause a forfeiture of the 1962(c) enterprise itself, 1963(a)(1) read in conjunction with 1962(c), in light of all the other sections, would seem to work a forfeiture of property other than the enterprise. That other property is the interest acquired by the enterprise. In this case, the Romanos, a group of individuals associated in fact, acquired interests in cash proceeds, and it is those proceeds that should be subject to forfeiture. The fact that the term interest may indicate a part of a larger whole [11/] does not persuade me that the 1963(a)(1) interest applies

---

9/ "(a) Whoever violates any provision of section 1963 of this chapter... shall forfeit to the United States...." 18 U.S.C. 1963(a).

10/ See United States v. Turkette, supra.

11/ See United States v. Thevis, supra. at p. 141-142.

only to an enterprise, for if it is income that is acquired from the § 1962(c) enterprise then each racketeer will simply forfeit his part of the whole of those acquired proceeds, i.e., each ROMANO brother will forfeit his 50% interest in the cash proceeds.

Thevis goes on to discuss the relation § 1963(a)(2) plays in the scheme of RICO forfeitures, holding that § 1963(a)(2) would cause a forfeiture of § 1962(a) & 1962(b) interests. The inquiry does not end there, for at page 143 the Court concludes that § 1963(a)(2) really "complements § 1962(c) in that it requires forfeiture of the defendants' interest in the enterprise whose affairs are conducted in violation of § 1962." Again, this Court agrees that 1963(a)(2) would cause the § 1962(c) enterprise to be forfeited. In fact, as a matter of law, I believe that 1963(a)(2) only operates to the detriment of enterprises. However, § 1963(a)(2) should not be considered to the exclusion of § 1963(a)(1) with respect to RICO (c) violations.

In sum, Thevis implicitly holds that forfeiture under § 1963(a)(1) is available only to violations of §§ 1962(a) and 1962(b), and that forfeitures under § 1963(a)(2) would apply to §§ 1962(a), 1962(b) and 1963(c). This judicial gerrymandering of the statute, although well reasoned, flies in the face of the express language of the statute. § 1963(a)(1) by its very terms applies to violations of § 1962, not merely §§ 1962(a) and 1962(b). Had Congress intended this result it could have so stated.

Finally, Thevis relies on the oft quoted passage coined in United States v. Meyers, 432 F.Supp. 456 (W.D. Pa. 1977), which at first blush appears to stand for the proposition that a § 1963(a)(1) forfeiture does not include fruits or profits, wherein it was stated that:

> "A strained construction of § 1963 might regard profits or fruits received from the enterprise as available revenue which might be used as funds to be reinvested in the enterprise or otherwise to influence its operation.

> However, the more natural interpretation is that an 'interest' is akin to a continuing proprietory right in the nature of a partnership or stock ownership (or holding a debt or claim) rather than mere dividends or distributed profits."12/

at page 461.

This court feels no strain in including the proceeds of the fraudulently received checks, whether deemed fruits or profits, in the forfeiture judgment. After a close inspection it appears that this passage has been taken out of context by the courts that rely on it. Before finding the "natural interpretation," the Meyers Court, in discussing 1963's effect on 1962 stated:

> "Forfeitability extends not only to any 'interest' in the enterprise, but to any 'claim against, or property, or contractual right of any kind' affording a source of influence over the enterprise."

Id. at p. 461.

This phrase closely tracks the language of § 1963(a)(2), leading this Court to conclude that Meyers was concerned with the bounds of forfeiture under 1963(a)(2), not 1963(a)(1). In that context I agree that it would indeed be a strained construction of § 1963(a)(2) to include fruits or profits in the forfeiture award. Even in Marubeni the government conceded that § 1963(a)(2) applies only to interests in the enterprise.13/ The real strain encountered by this Court has been how to exclude fruits or profits derived from a 1962(c) enterprise when sought under 1963(a)(1), notwithstanding Meyer's "natural interpretation," which I believe is inapposite to the case at bar.

12/ It should be noted that the above quoted passage was obiter dictum, relating to an issue which was rendered moot.

13/ See Marubeni, supra, at p. 766, n. 6.

If the income, proceeds, profits or fruits of the RICO(c) enterprise are not "interests acquired" then what are they? It is the sincere belief of this Court that 1963(a)(1) does and should operate to divest racketeers of the fruits of their 1962(c) enterprise.

Luckily for the ROMANOS, this Court does feel strained when confronted with the possibility of clashing with the time honored notion of stare decisis. For subsequent to the Order of Forfeiture originally entered herein, the Fifth Circuit in deciding a case of first impression in this Circuit held that § 1963 is not to be applied against the fruits and profits obtained from a pattern of racketeering activity. United States v. Martino, 648 F.2d 367 (5th Cir. 1981).[14/] In so holding the court adopted the holdings in Marubeni, Thevis, and Meyers. Herein lies the rub.

In Martino, the defendants were charged and convicted of conducting the affairs of an enterprise (a group of individuals associated in fact to defraud fire insurers) through a pattern of racketeering activity in violation of § 1962(c). Defendants each received proceeds from insurance policies which were purchased prior to insured structures being torched. The jury returned verdicts ordering forfeiture of the insurance proceeds collected by the defendants. The government took the position that income or profits from the illegal enterprise were forfeitable under § 1963. Defendants contended that § 1963 only applied to interests in the enterprise. The court defined the issue as:

> "Whether the term interest in 18 U.S.C. § 1963(a) includes income or receipts from racketeering activity."

The court, relying on the Marubeni/Thevis/Myers triad, cases relied on heavily by defendants herein held in the negative but in so doing did not distinguish between §§ 1963(a)(1)

14/ See also United States v. Peacock, slip nos. 79-5238, 80-7087 (5th Cir. August 27, 1981), which summarily reversed the District Court's Order forfeiting profits derived from a § 1962(c) enterprise (arson ring), relying solely on the Martino case, supra.

and § 1963(a)(2). However, since 1963(a)(2) clearly applies only to interests in enterprises this Court finds that the court implicitly ruled on 1963(a)(1)'s effect on 1962. Apparently, in adopting Thevis' analysis the Fifth Circuit has ratified the holding that forfeiture via § 1963(a)(1) is not to be applied to § 1962(c). I neither like nor agree with this result for the reasons I have previously expressed, but am duty bound to follow Fifth Circuit precedent. Martino, being directly on point with the case at bar, must control. Therefore, my previous Order and Judgment of Forfeiture with respect to Counts One and Six must be vacated and set aside, yielding to the controlling case law.

FORFEITURE UNDER COUNT FIFTEEN

Through their guilty verdict in Count Fifteen, the jury found that the defendants had received income derived through a pattern of racketeering activity described in Count One, and used and invested this income to acquire, establish, and maintain an interest in an enterprise, The Sea Inn of Hallandale, Inc. The government has established a direct trace of a portion of the funds obtained by the defendants (Count One) to acquire and maintain an interest in The Sea Inn. The ROMANOS' interest in this property is subject to forfeiture pursuant to 18 U.S.C. § 1963(a)(1) and (2). This interest consists of a $316,077 portion of the $800,000 note and mortgage (see Note 7,supra.) The ROMANOS' interest in The Sea Inn which was derived from racketeering income amounted to 23.4% of its value. Therefore, forfeiting their 23.4% interest in the property would be appropriate, said 23.4% being calculated on the total net worth of the asset, which necessarily includes gains due to appreciation over time ($82,016 represents the ROMANOS' pro rata share of the gain from the sale of the restaurant, plus the original investment of $234,061 equals the $316,077 which is forfeitable under Count Fifteen).

Forfeiture of the ROMANOS' interest in The Sea Inn of Hallandale, Inc. will not be disturbed.

Wherefore, after carefully considering defendants' Motion For Reconsideration, and memoranda submitted, the oral argument of counsel, and the record in this cause, and being otherwise duly advised in the premises, it is

ORDERED AND ADJUDGED that this Court's Order and Judgment of Forfeiture entered on May 4, 1981 is hereby modified as follows:

1. The $422,969.50 judgment in favor of the United States and against THOMAS ROMANO, as recited in paragraph 1, is hereby VACATED and SET ASIDE.

2. The $422,969.50 judgment in favor of the United States and against FRANK ROMANO, as recited in paragraph 2, is hereby VACATED and SET ASIDE.

The Order and Judgment of Forfeiture is affirmed in all other respects.

DONE AND ORDERED in Miami, Florida this 6th day of October, 1981.

Alcee L. Hastings

ALCEE L. HASTINGS
UNITED STATES DISTRICT COURT

GOVERNMENT
EXHIBIT
CR 73-73A
ADMITTED

Southern Bell

Gerard J. Doyle
Segment Manager - Security

666 N.W. 79th Avenue - Room 319
Miami, Florida 33126
(305) 263-3081

January 27, 1989

Ms. Catherine Kleifges

U. S. House of Representatives
Room 361 - House Annex Two
~~26D Streets, S. W.~~
Committee on the Judiciary
Washington, D. C. 20515-6216

Dear Sir/Madam:

Attached, please find the customer toll billing records for Miami subscribers to telephone numbers (305) 350-4201; 350-4220; 350-4228; 350-4278; 350-4279; 350-4280; 350-4289; 945-9939; 757-6530 which were subpoenaed by the U. S. House of Representatives Washington, D. C.; matter of the Impeachment of Judge Alcee L. Hastings.

If this office may be of further assistance, please advise.

United States Senate
EVIDENTIARY PROPOSAL
HOUSE MANAGERS EXHIBIT 10

Very truly yours,

Angela R. Heller
Records Custodian
Southern Bell

AS DISCUSSED, THE OTHER TELEPHONE NUMBERS REQUESTED ON THE SUBPOENA WILL BE FORTHCOMING FROM THE RESPECTIVE SECURITY OFFICES.

EXHIBIT
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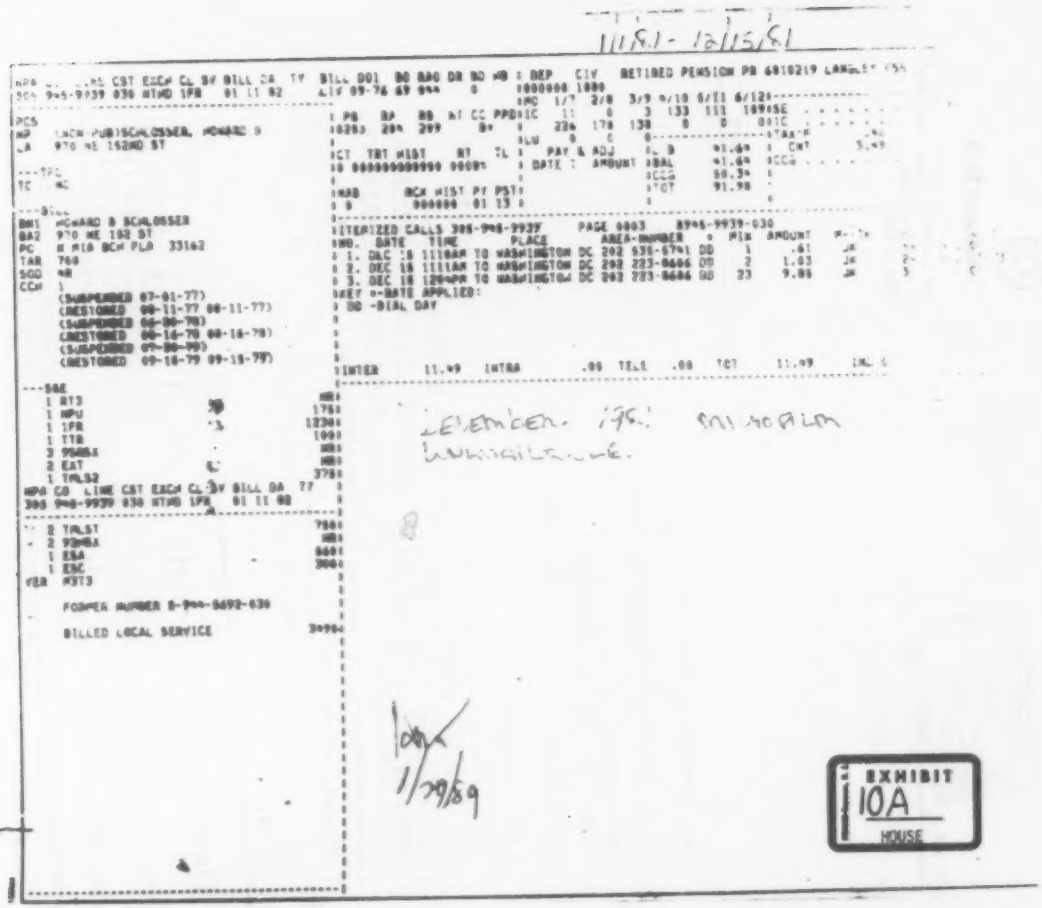
HOUSE



11/8/1 - 12/15/81

LEVENGER. 175. SOLICITATION UNREASONABLE.

11/29/89

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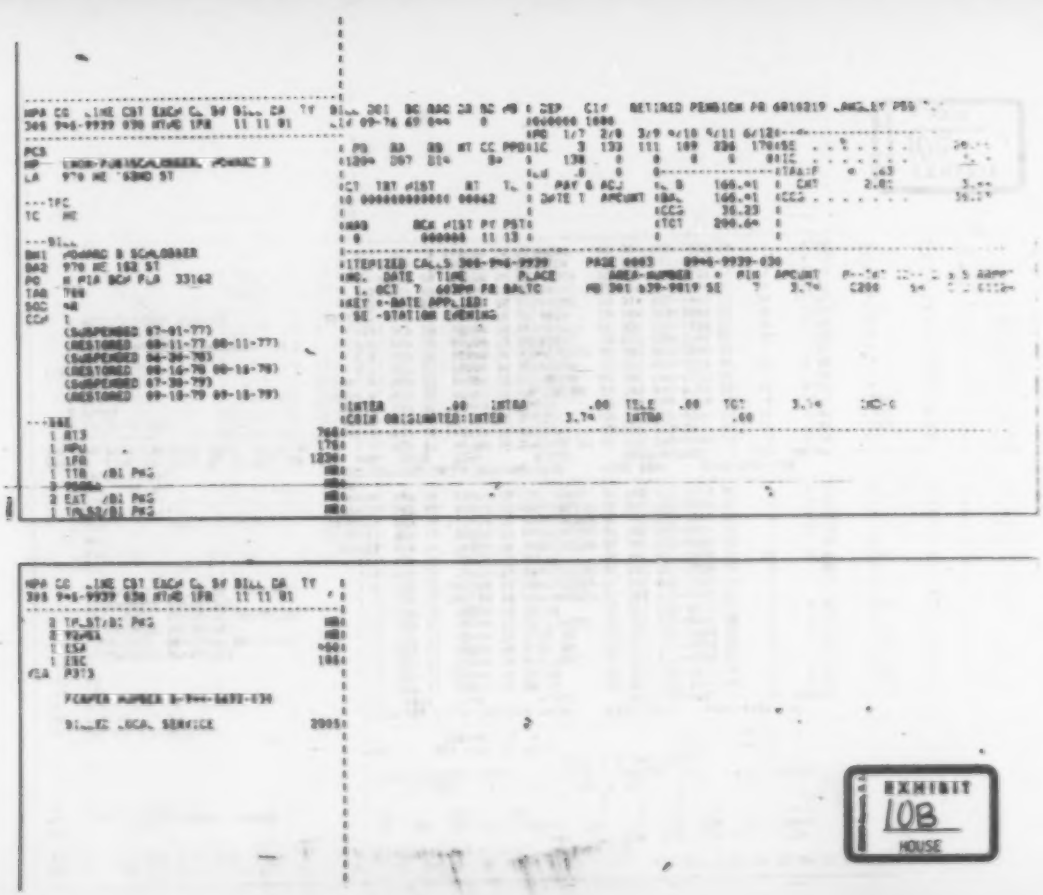

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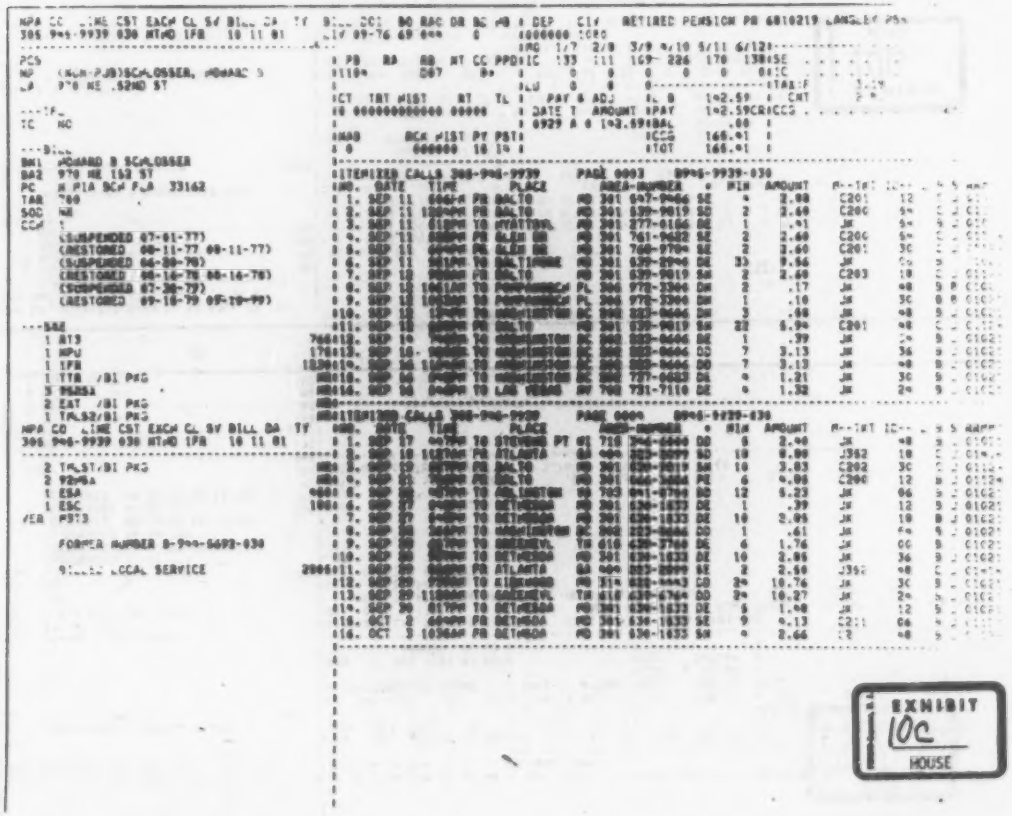

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EXHIBIT
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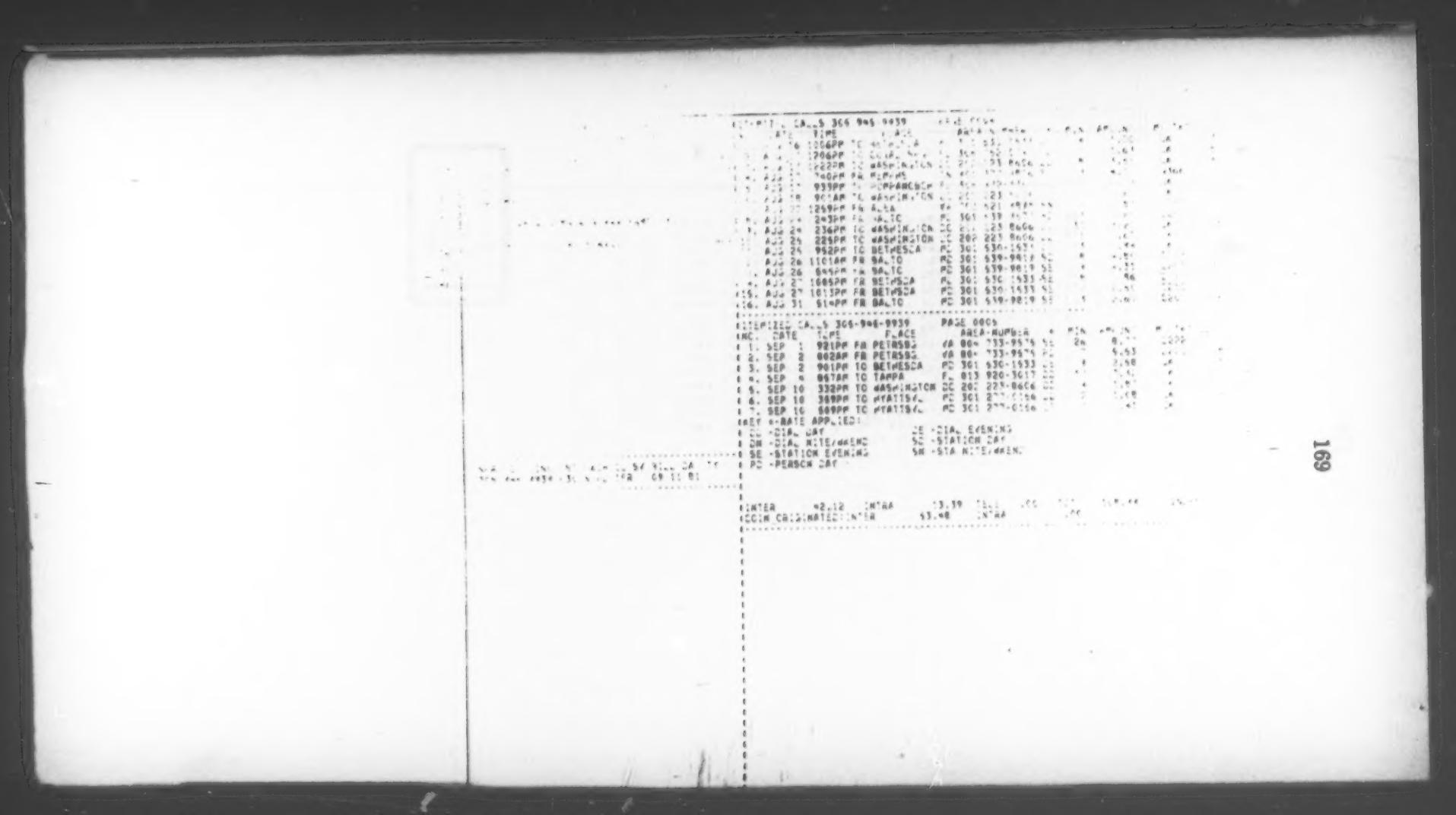


ITEMIZED CALLS 305 945-9934 PAGE 0003

NO.	DATE	TIME	PLACE	AREA-NUMBER	MIN	AMOUNT
1.	JUL 10	1008AM	FR BALTO	MD 301 539-98.4	SS	
2.	JUL 13	955AM	TO GREENEVL	TN 615 639-0533		
3.	JUL 13	958AM	TO GREENEVL	TN 615 638-8151		
4.	JUL 13	948PM	TO INGLEWOOD	CA 213 670-9000	5	
5.	JUL 14	1024AM	TO INGLEWOOD	CA 213 670-9000	3	
6.	JUL 15	715PM	FR MEMPHS	TN 901 377-9769	SS	
7.	JUL 15	905AM	FR BALTO	MD 301 539-9819	S	
8.	JUL 15	913AM	TO WASHINGTON	DC 202 223-8606		
9.	JUL 15	119PM	TO WASHINGTON	DC 202 223-8606		
10.	JUL 19	848PM	FR MEMPHS	TN 901 377-9773		
11.	JUL 19	956PM	TO BALTIMORE	MD 301 566-3656	26	
12.	JUL 20	819AM	TO WASHINGTON	DC 202 223-8606		
13.	JUL 20	901AM	TO BALTIMORE	MD 301 539-5822		
14.	JUL 20	708PM	TO HOMESTEAD	FL 305 247-4871		
15.	JUL 21	611PM	FR MEMPHS	TN 901 377-9770	S	
16.	JUL 21	555PM	TO WASHINGTON	DC 202 223-8606		

EXHIBIT 101 HOUSE

ITEMIZED CALLS 305-945-9939 PAGE 0004

INC.	DATE	TIME	PLACE	AREA-NUMBER	*	MIN	AMOUNT
1.	AUG 22	1004AM	TO WASHINGTON	DC 202 [illegible]			.61
2.	AUG 23	639PM	TO KIRKWOOD	MO 314 822-4449		9	.96
3.	JUL 24	1158AM	TO GREENEVL	TN 615 [illegible]			.33
4.	JUL 24	1247PM	TO GREENEVL	TN 615 638-6549		1	.11
5.	JUL 24	350PM	TO PEMPANGSH	FL 305 972 [illegible]			.11
6.	JUL 24	410PM	TO HOMESTEAD	FL 305 247-[illegible]			.11
7.	JUL 24	411PM	TO GREENEVL	TN 615 639-[illegible]			.11
8.	JUL 24	1006PM	TO KIRKWOOD	MO 314 822-4449	SE	2	.44
9.	JUL 26	1238PM	FR PEMPHS	TN 901 377-[illegible]	SA	1	[illegible]
10.	JUL 26	1118AM	TO KIRKWOOD	MO 314 822-4449	SA	13	1.46
11.	JUL 27	141PM	TO GREENEVL	TN 615 639-5111	SE	3	1.65
12.	JUL 28	358PM	TO GREENEVL	TN 615 639-5111	SE	12	1.32
13.	JUL 28	419PM	TO GREENEVL	TN 615 638-6549	SE	4	1.87
14.	JUL 29	909AM	TO GREENEVL	TN 615 639-3080	SE	4	1.10
15.	JUL 29	917PM	FR BALTO	MD 301 566-3656	SE	1	2.64
16.	AUG 3	613PM	FR BALTO	MD 301 566-3656	SE	1	2.64

ITEMIZED CALLS 305-945-9939 PAGE 0005

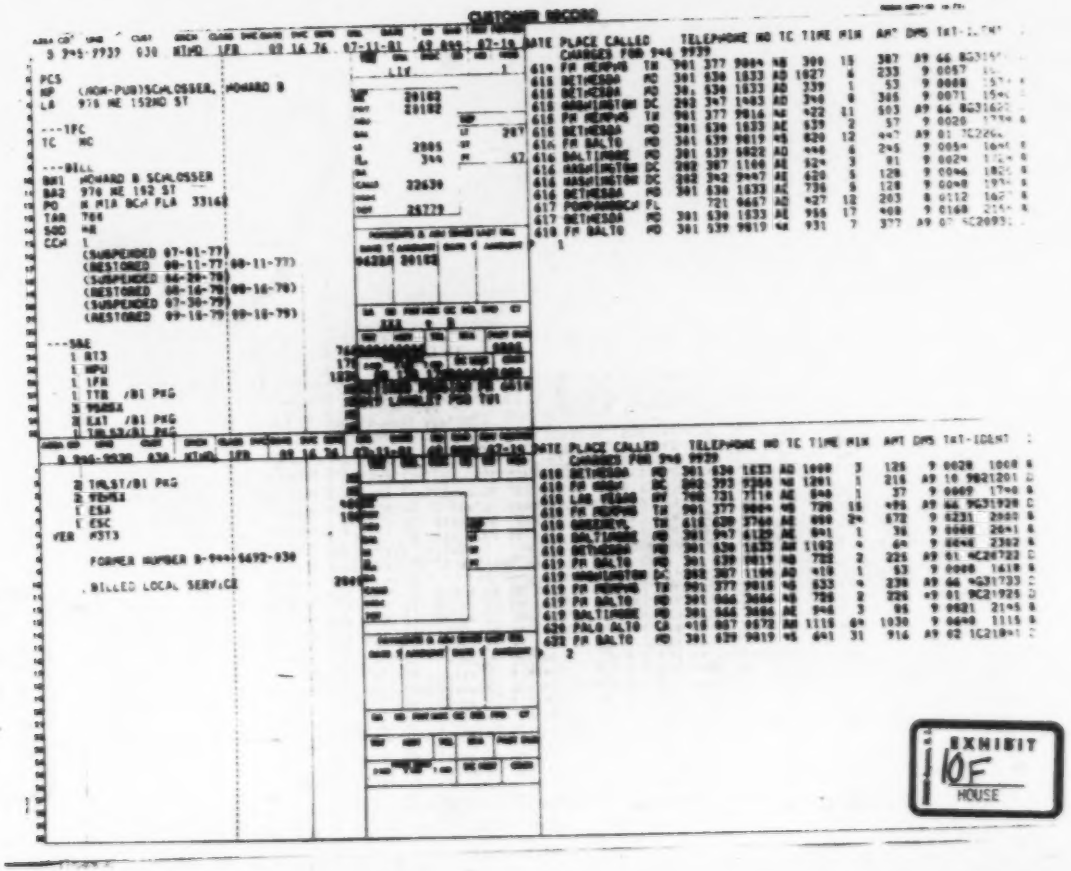
INC.	DATE	TIME	PLACE	AREA-NUMBER	*	MIN	AMOUNT
1.	AUG 6	939PM	FR BALTO	MD 301 566-3656	SE	1	2.64
2.	AUG 11	859AM	TO LAYHILL	MD 301 598-4260	DD	2	1.18
3.	AUG 11	1215PM	TO WASHINGTON	DC 202 223-8606	DD	2	1.03
4.	AUG 11	1226PM	TO GREENEVL	TN 615 639-6764	DD	2	1.03
5.	AUG 11	729PM	TO CORAL SPG	FL 305 752-6743	DE	1	.66
6.	AUG 11	730PM	TO WASHINGTON	DC 202 338-6447	DE	3	.94
7.	AUG 11	802PM	TO BALTIMORE	MD 301 566-3656	DE	24	6.13
8.	AUG 11	928PM	TO CORAL SPG	FL 305 752-0747	DE	1	.20

KEY *-RATE APPLIED:

DD -DIAL DAY	DE -DIAL EVENING
DN -DIAL NITE/WKEND	SD -STATION DAY
SE -STATION EVENING	SN -STA NITE/WKEND

INTER 71.12 INTRA 3.22 TELE .00 TAX 17.49 TOTAL

ORIGINATED: INTER 33.15 INTRA .00



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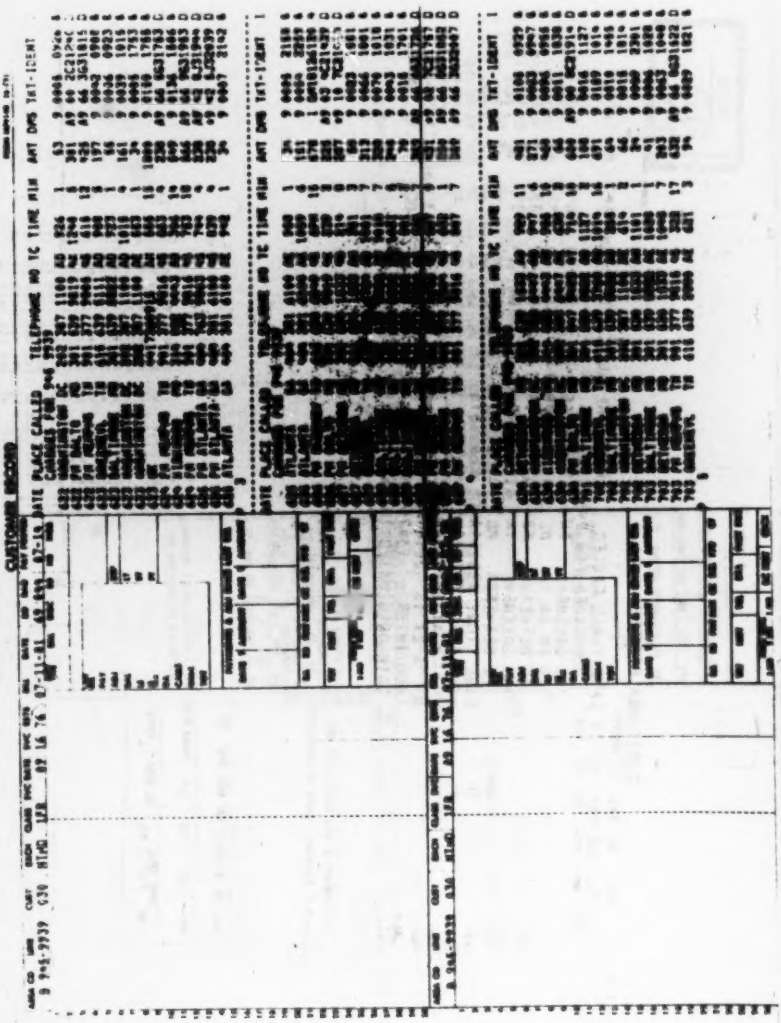
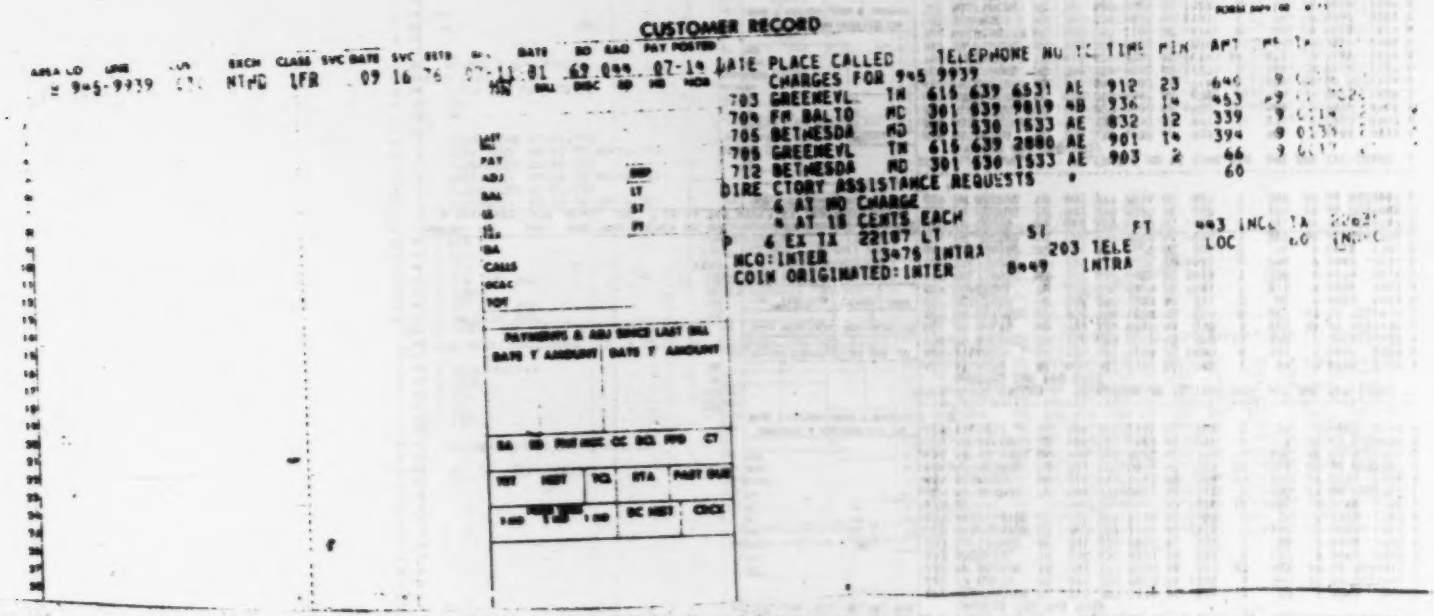

CUSTOMER RECORD



CUSTOMER RECORD

AREA LO LINE SUF BRCH CLASS SVC DATE SVC RSTD SU DATE DO BAD PAY POSTED

= 945-9939 NTHO 1FR 09 16 76 01 69 099 07-14

DATE PLACE CALLED TELEPHONE NU TC TIME MIN AMT

CHARGES FOR 945 9939

703 GREENEVL TN 615 639 6631 AE 912 23 646

704 FR BALTO MD 301 639 9819 AB 936 14 463

705 BETHESDA MD 301 630 1633 AE 832 12 339

705 GREENEVL TN 615 639 2880 AE 901 14 394

712 BETHESDA MD 301 630 1633 AE 903 2 66

60

DIRECTORY ASSISTANCE REQUESTS

4 AT NO CHARGE

4 AT 15 CENTS EACH

4 EX TX 22107 LT ST FT 493 LOC

NCO: INTER 13476 INTRA 203 TELE

COIN ORIGINATED: INTER 8449 INTRA

LAST BILL

PAY

ADJ

BAL

CALLS

OCAC

TOT

PAYMENTS & ADJ SINCE LAST BILL

DATE T AMOUNT DATE T AMOUNT

BA DD PAST DUE CC DCL PPD CT

TOT NEXT TCL STA PAST DUE

DC NEXT CHCK

CUSTOMER RECORD
CHARGES FOR 946 9939
(SUSPENDED 07-01-77)
(RESTORED 08-11-77)08-11-77)
(SUSPENDED 04-08-78)
(RESTORED 08-16-78)08-16-78)
(SUSPENDED 07-06-79)
(RESTORED 09-16-79)09-16-79)
FCOPER NUMBER 8-946-6892-030
BILLED LOCAL SERVICE
EXHIBIT
16G
HOUSE

CUSTOMER RECORD

DATE	PLACE CALLED	TELEPHONE NO	TC	TIME	MIN	AMT	DPS
	CHARGES FOR 946 9939						
624	FR GREENEV	TN 615 638 6549	HS	1OPP	1	215	
624	GREENEVL	TN 615 638 6549	AN	1133	21	369	0
624	FR ATLANTA	GA 404 763 9777	HS	625	6	285	A9
625	FR MARTVL	TN 615 977 9366	HF	36+	5	287	A9
626	FR MEMPHS	TN 901 377 9804	HS	529	1	215	A9
626	FR GREENEV	TN 615 638 6549	HS	748	2	256	
626	FR BALTO	MD 301 639 9819	HS	527	4	249	A9
627	BETHESDA	MD 301 530 1533	AE	719	2	57	9
628	FR MEMPHS	TN 901 377 9816	HK	815	2	215	A9
628	BETHESDA	MD 301 638 1533	AD	919	4	89	3
629	HOLLYWOOD	FL 954 9992	DF	1341	1	215	A9
	FR ALEA	VA 703 821 0795					
629	BETHESDA	MD 301 638 1533	AD	1051	2	89	3
631	FR BALTO	MD 301 639 9819	HS	728	16	422	A9

DATE	PLACE CALLED	TELEPHONE NO	TC	TIME	MIN	AMT	DPS
	CHARGES FOR 946 9939						
601	FR BALTO	MD 301 639 9877	HK	963	2	226	A9
601	FR BALTO	MD 301 639 9877	HS	913	29	1178	A9
602	FR BALTO	MD 301 639 9877	HS	633	8	348	A9
602	WASHINGTON	DC 202 298 6301	AE	641	2	57	9
603	FR BALTO	MD 301 639 9877	HS	351	2	226	A9
603	FR BALTO	MD 301 639 9819	HS	648	12	447	A9
603	FR BALTO	MD 301 639 9877	HK	831	10	491	A9
603	FR BALTO	MD 301 639 9877	HS	619	13	472	A9
604	FR BALTO	MD 301 639 9819	HK	1281	8	416	A9
604	FR MEMPHS	TN 901 377 9804	HK	144	3	215	A9
605	FR MEMPHS	TN 901 377 9816	HS	526	10	495	A9
	[illegible]	[illegible]				1OPP	9
605	FR MEMPHS	TN 901 377 9804	HS	1033	2	215	A9
606	FTLAUDERDL	FL 764 7686	AE	631	17	139	8

DATE	PLACE CALLED	TELEPHONE NO	TC	TIME	MIN	AMT	DPS
	CHARGES FOR 946 9939						
606	FTLAUDERDL	FL 764 7686	AE	641	5	46	8
606	FR MEMPHS	TN 901 377 9816	HS	1012	1	215	A9
606	MIDDLEBURY	IN 219 679 9908	AN	1120	+	67	9
608	FR BALTO	MD 301 639 9819	HS	439	12	567	A9
608	ERDA	GA 813 865 2891	AD	901	3	131	9
608	HOMESTEAD	FL 247 4871	AD	101	9	269	8
609	EDGEMONT	IL 618 398 0487	AN	738	10	158	9
	6 EX TX 14784 CT		ST		PT	334 INCL TA	
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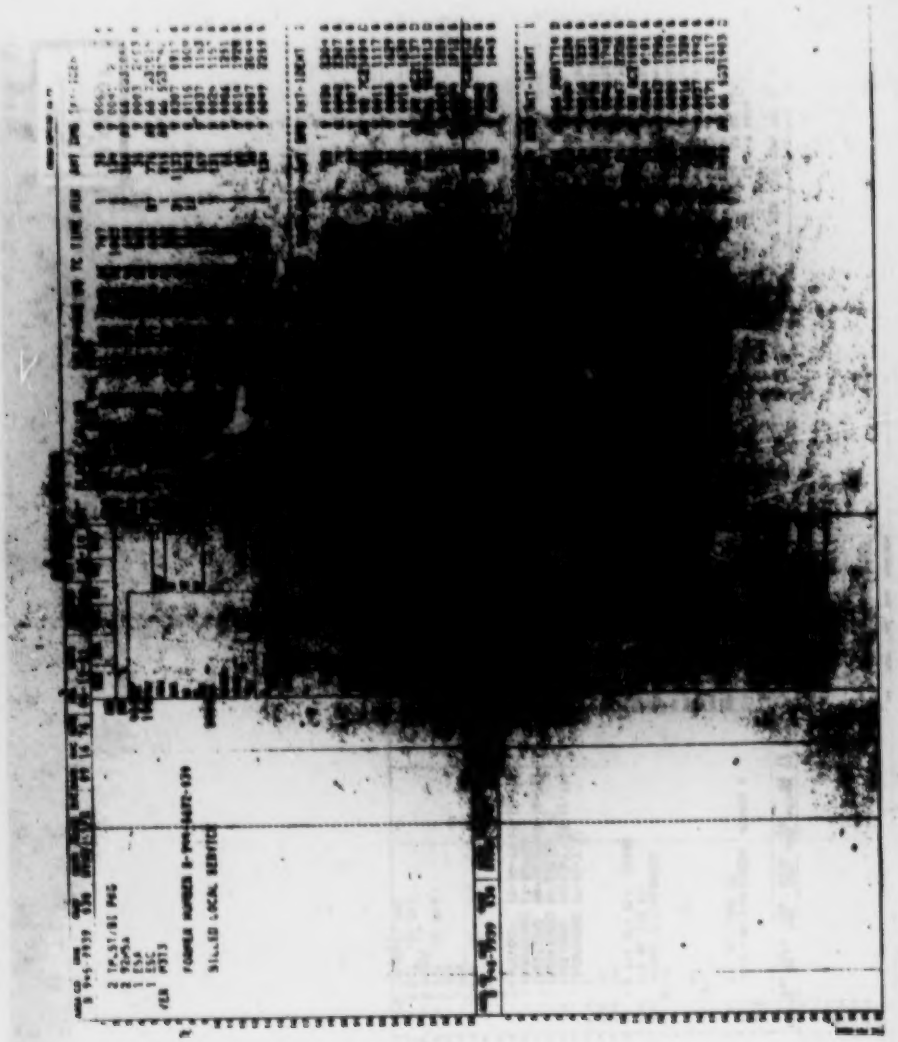

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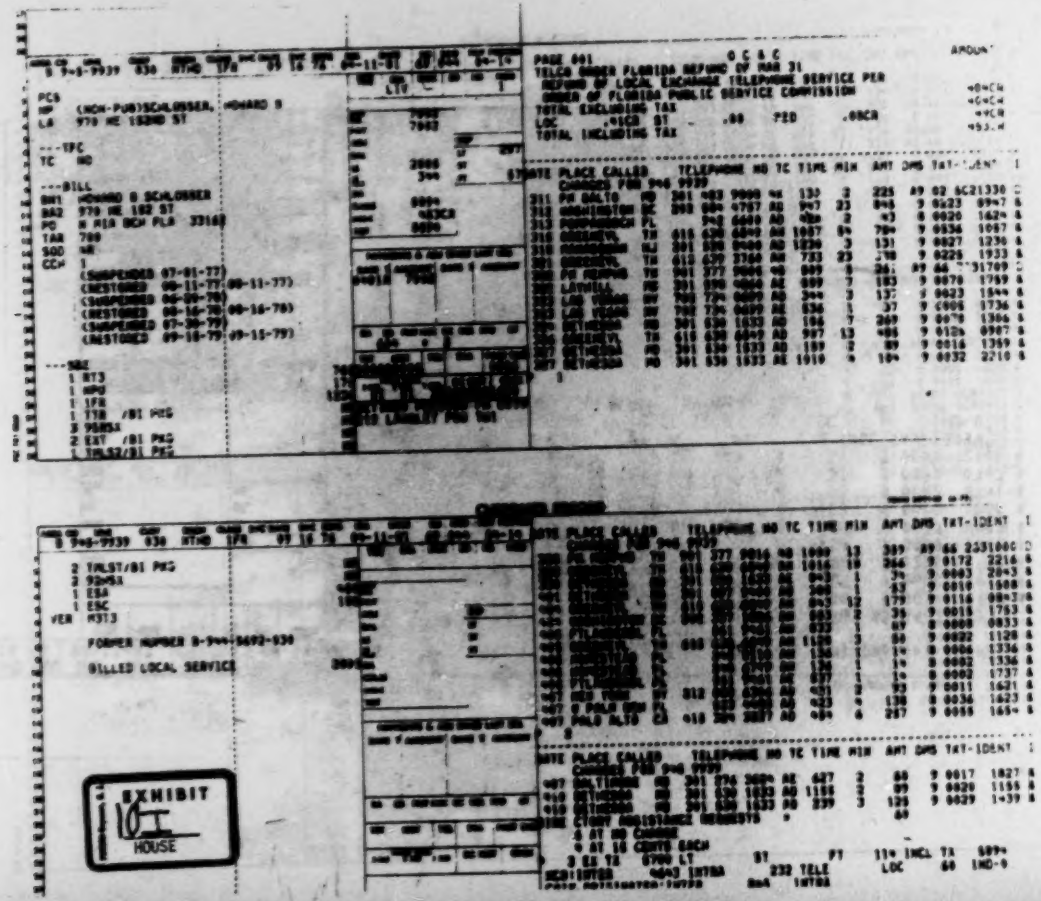

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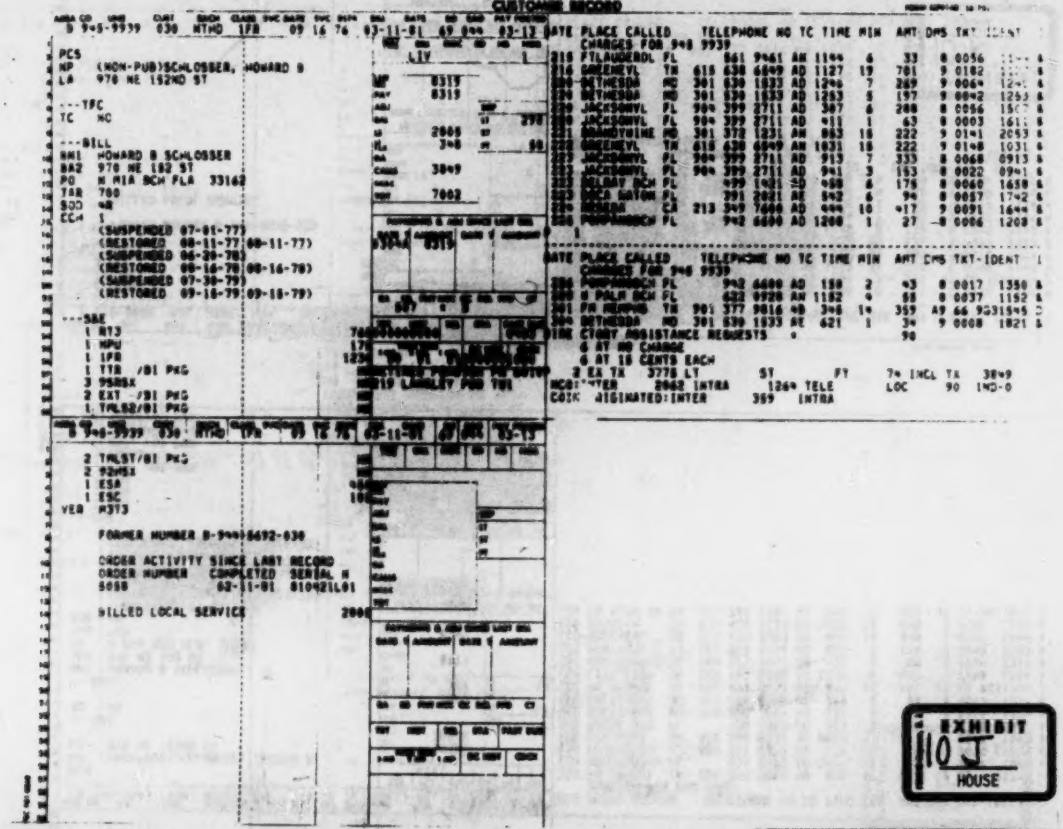

CUSTOMER RECORD

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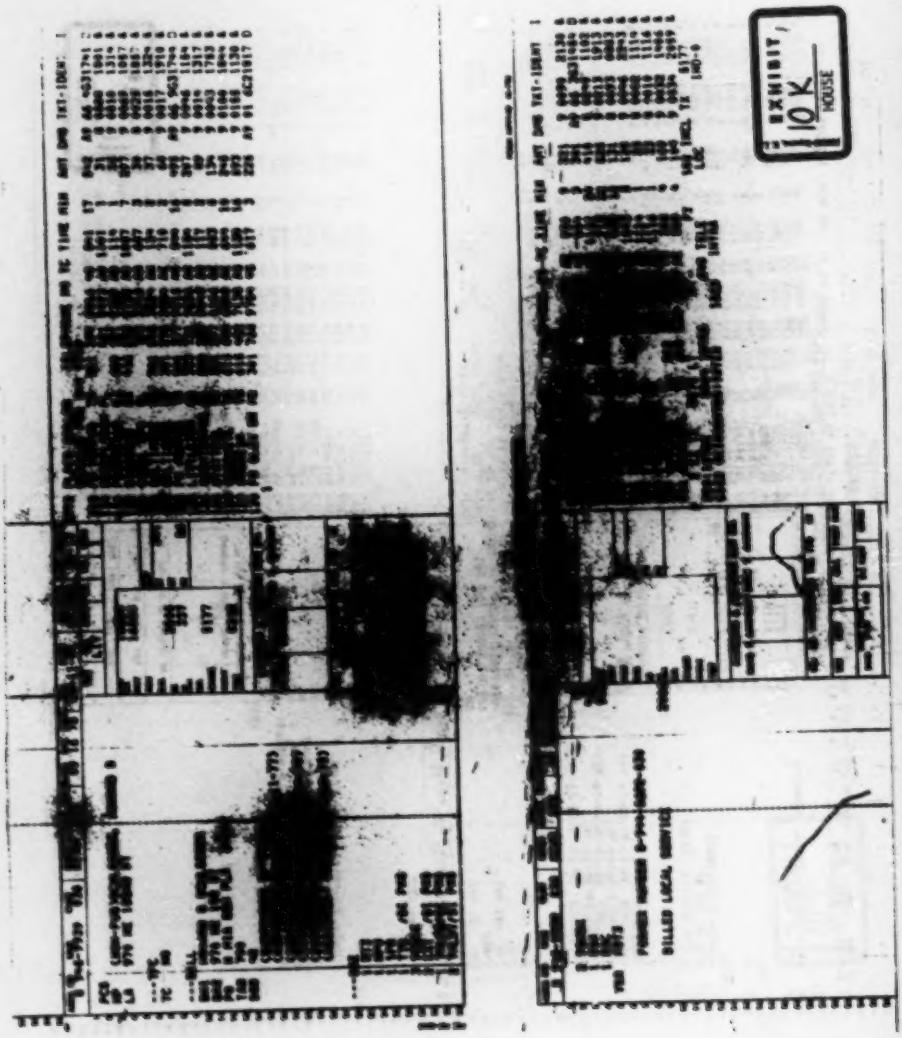


EXHIBIT
10K
HOUSE

CUSTOMER RECORD

EXHIBIT
10L
HOUSE

Gerard J. Doyle
Segment Manager - Security

Southern Bell

600 N.W. 79th Avenue - Room 319
Miami, Florida 33126
(305) 263-3061

March 17, 1989

Lori E. Fields
Asst. Special Counsel
Congress of the United States
House of Representatives
2137 Rayburn House Office Building
Washington, D.C. 20515-6216

Dear Sir/Madam:

Attached, please find the customer toll billing records for Miami subscriber to telephone number (305) 891-0737, which were subpoenaed by the Lori E. Fields, Asst. Special Counsel, Congress of the United States, House of Representatives, Committee on the Judiciary.

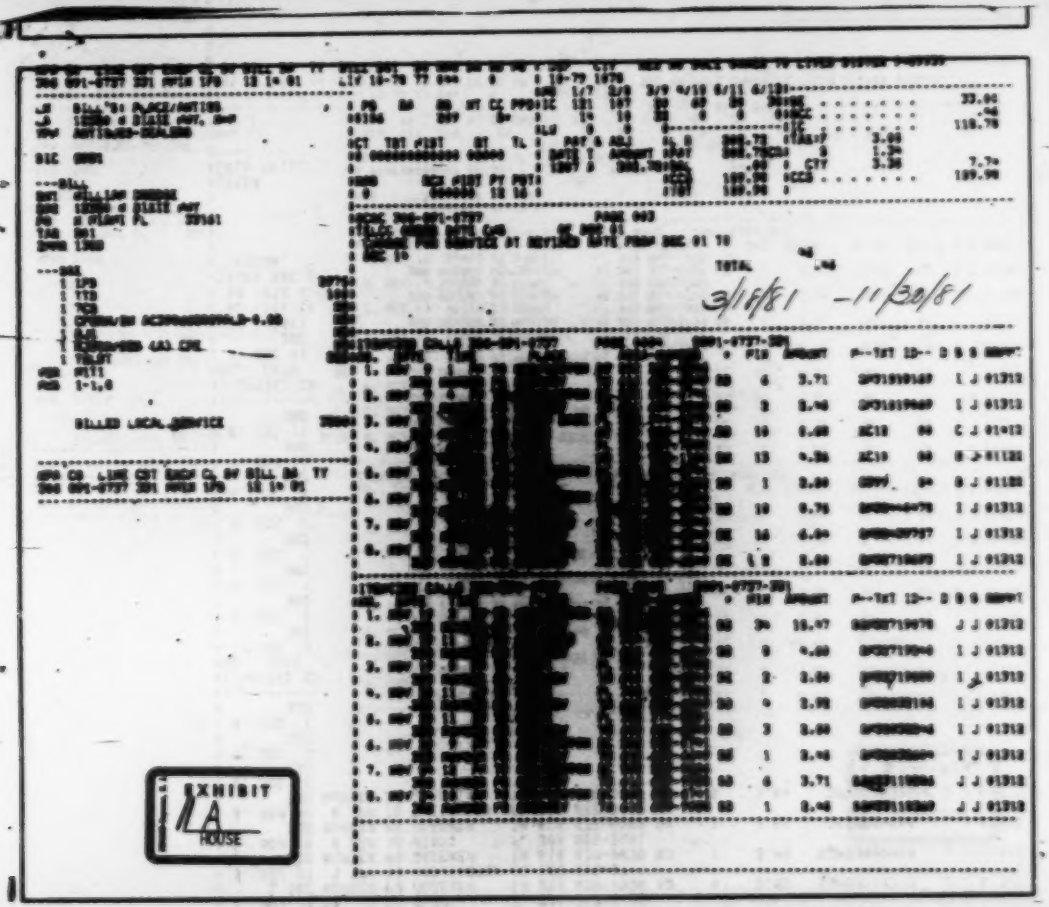
If this office may be of further assistance, please advise.

Very truly yours,

Angela R. Heller
Records Custodian
Southern Bell

EVIDENCE
HOUSE MANAGERS' EXHIBIT 11

EXHIBIT
11
HOUSE



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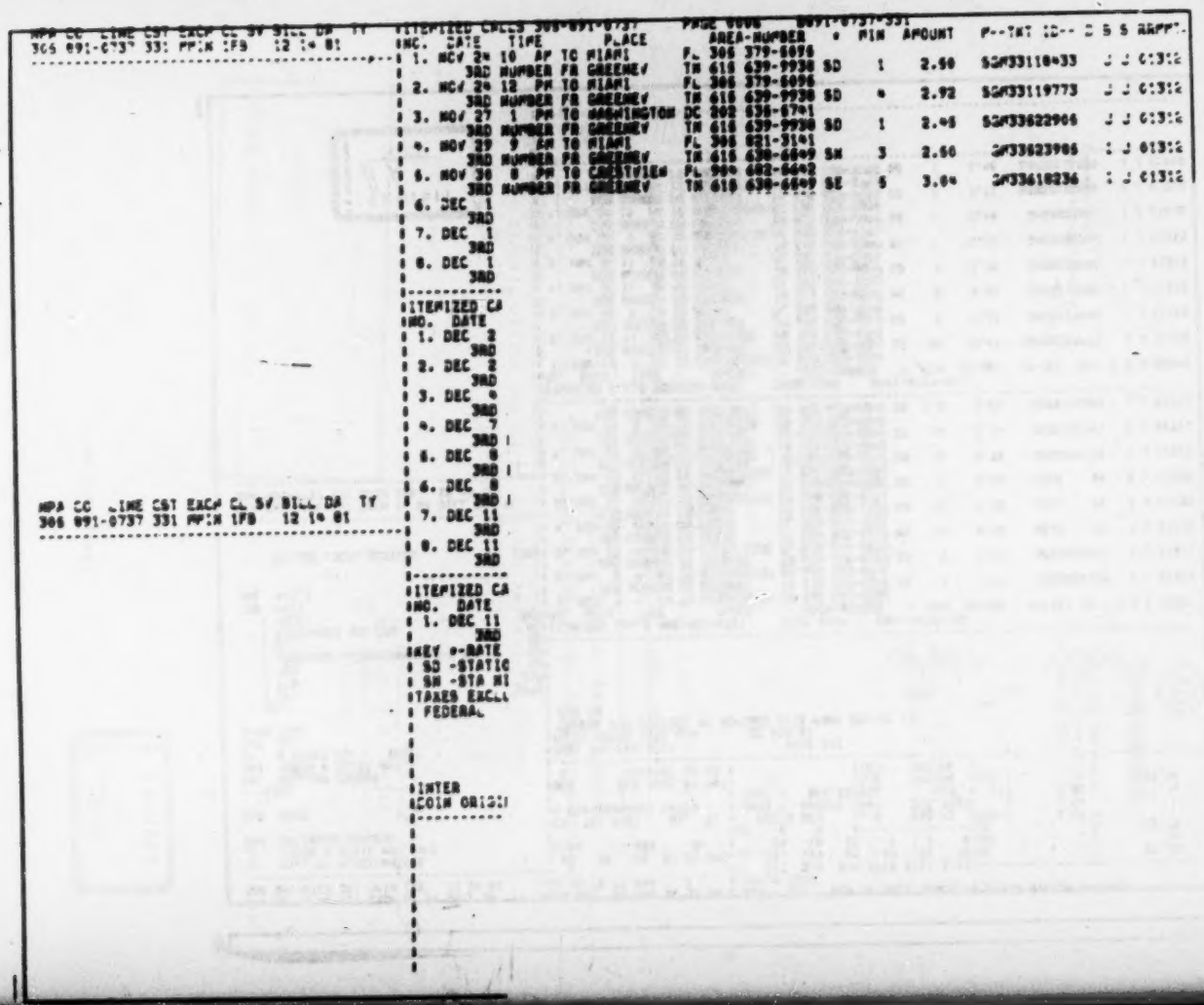

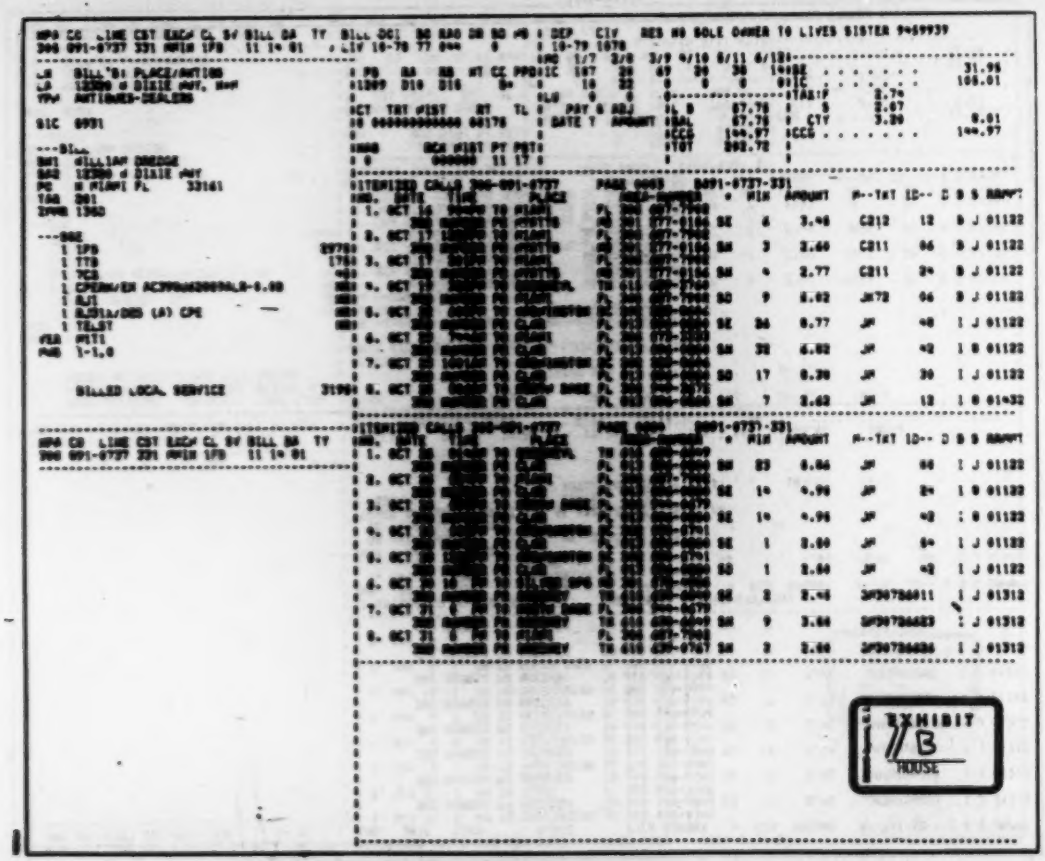

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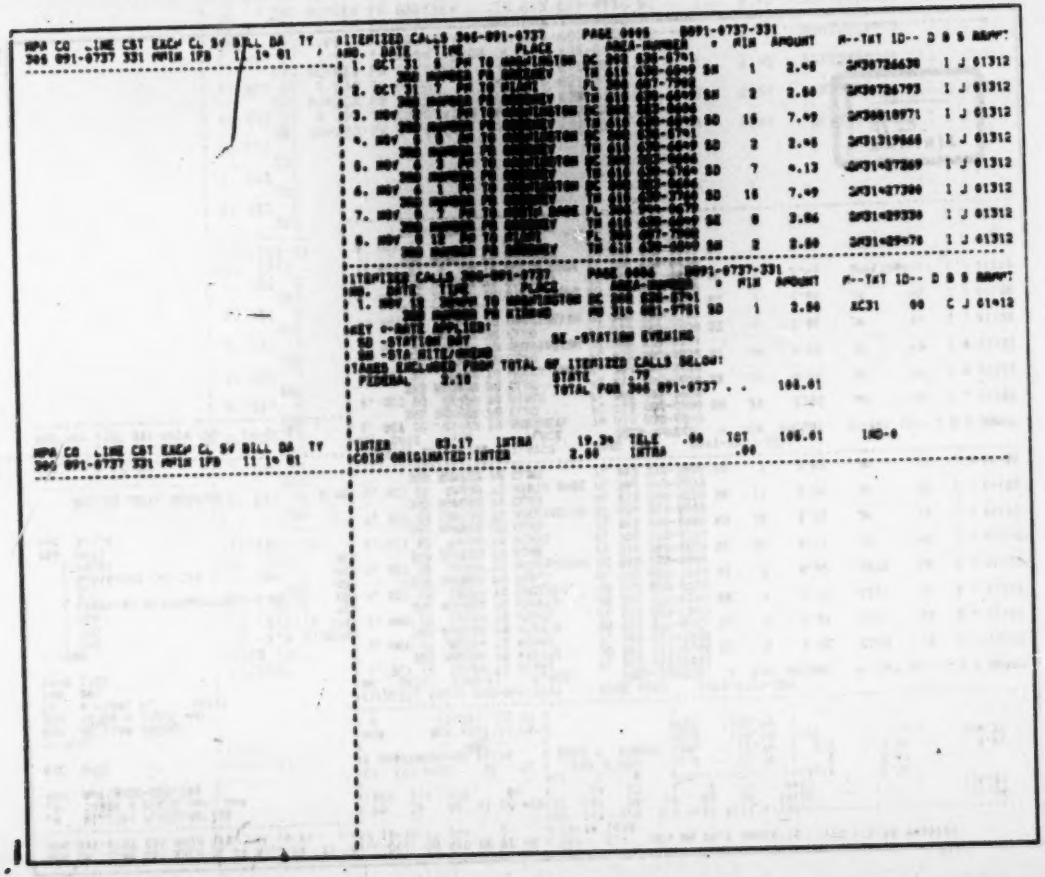

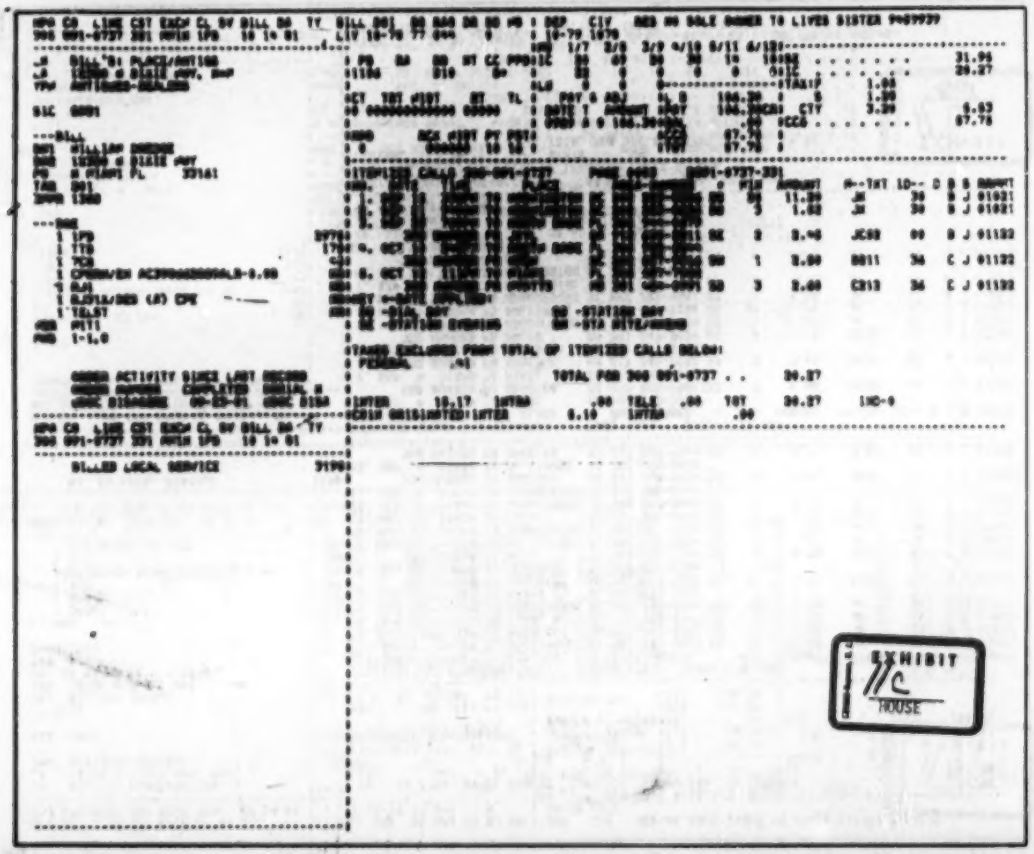

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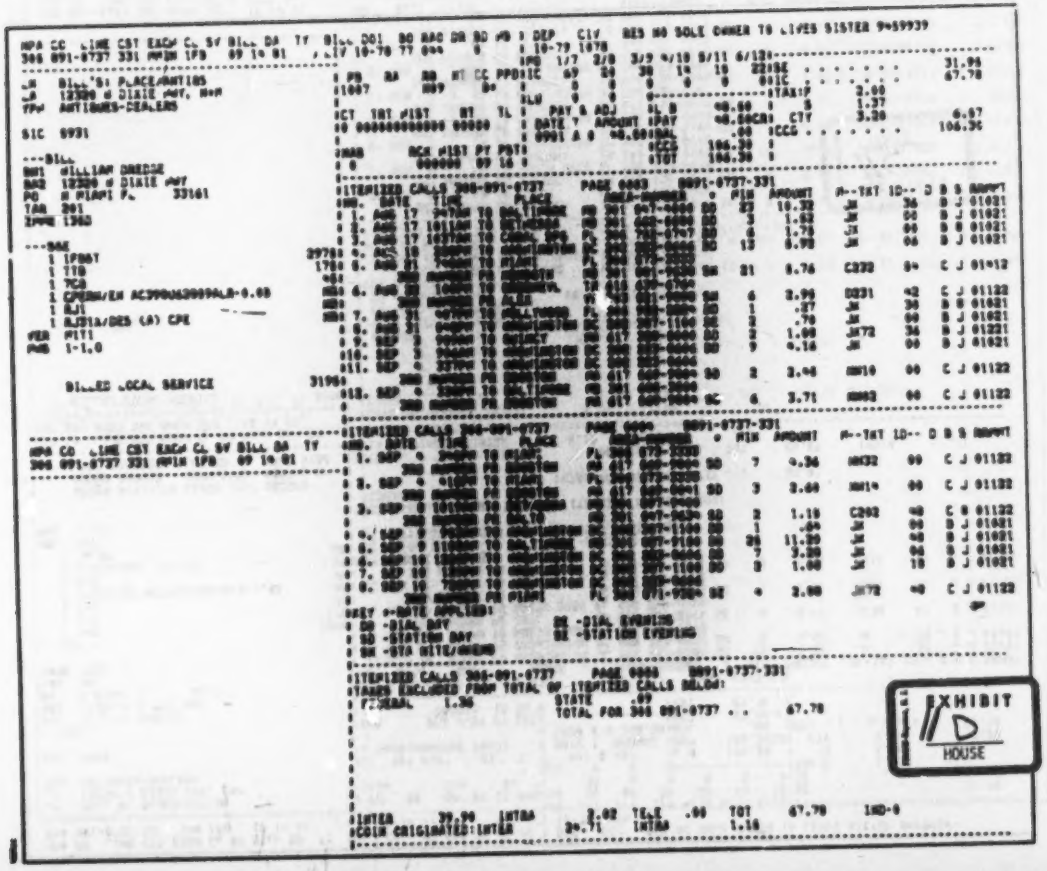
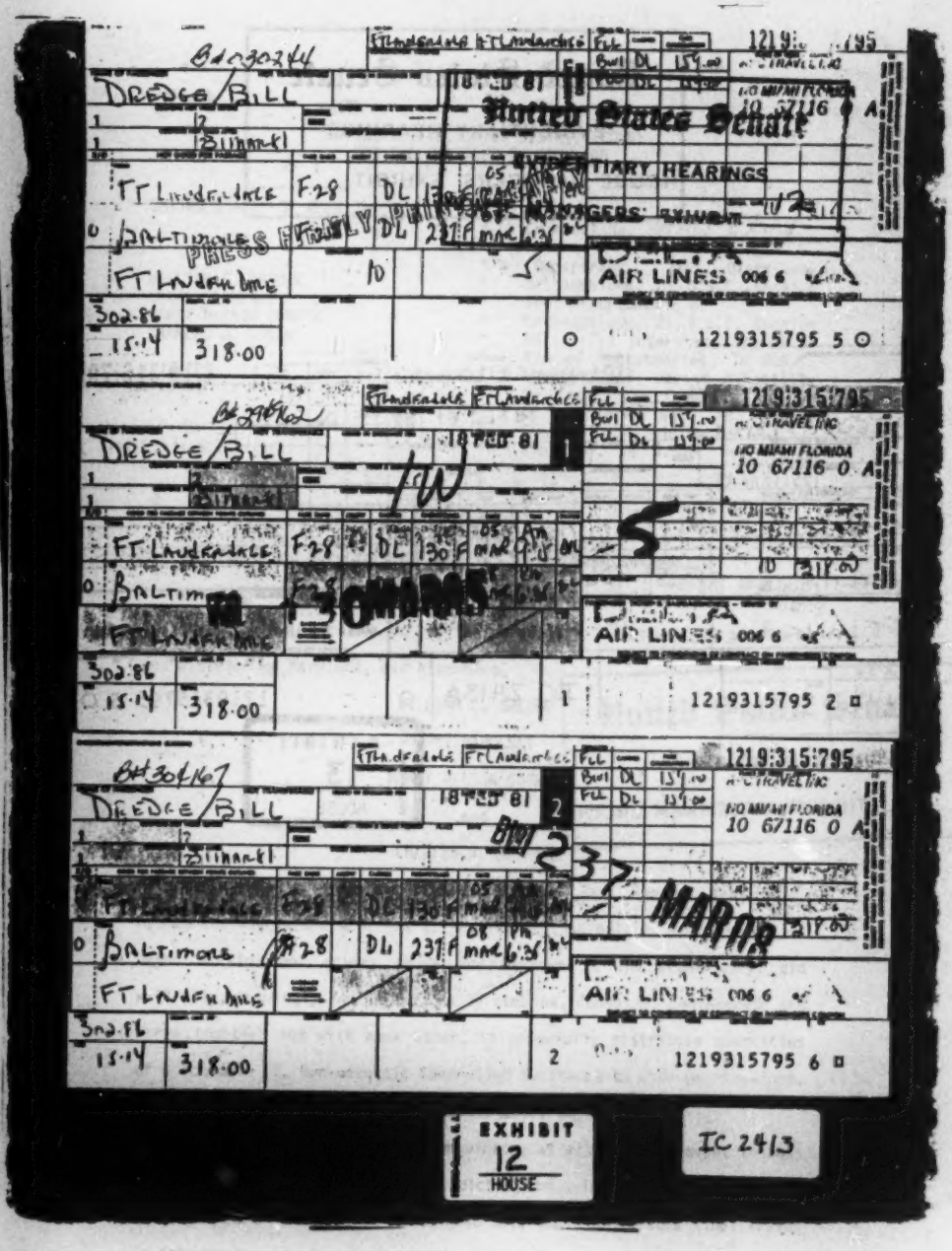


EXHIBIT 17D HOUSE


DREDGE/BILL
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BALTIMORE
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United States Senate
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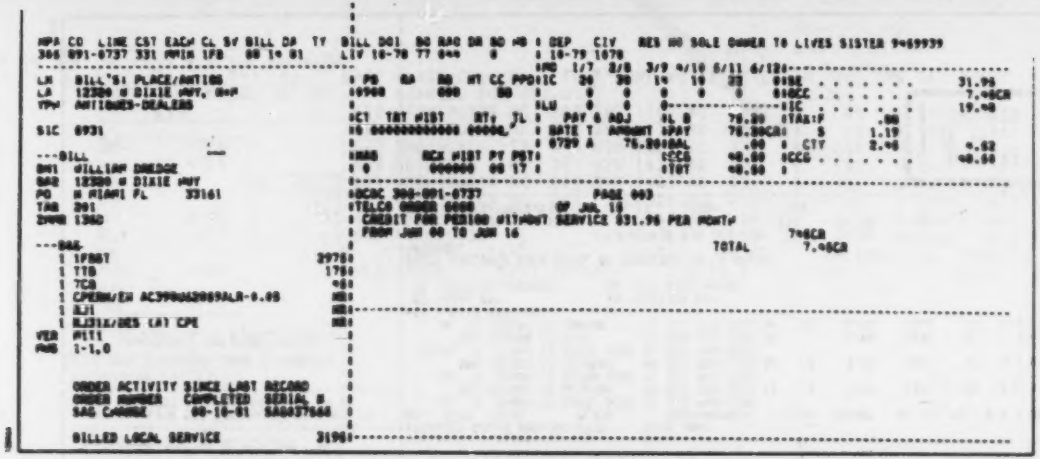
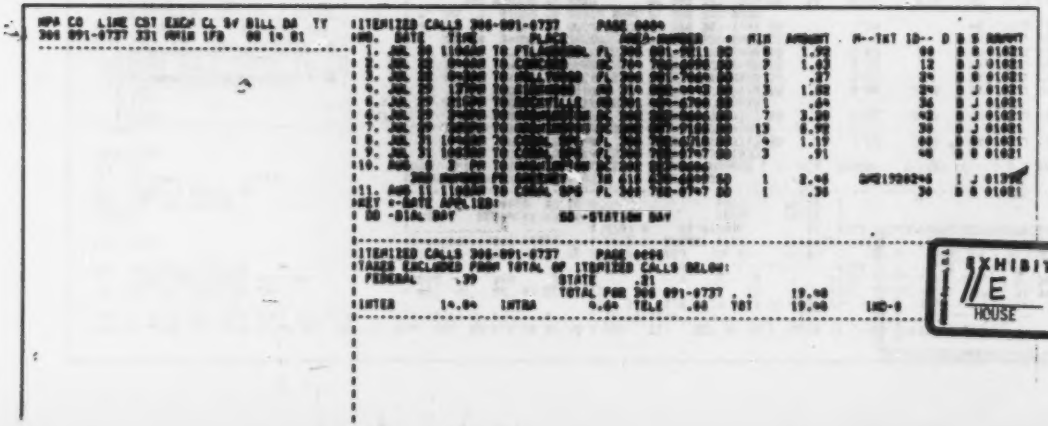




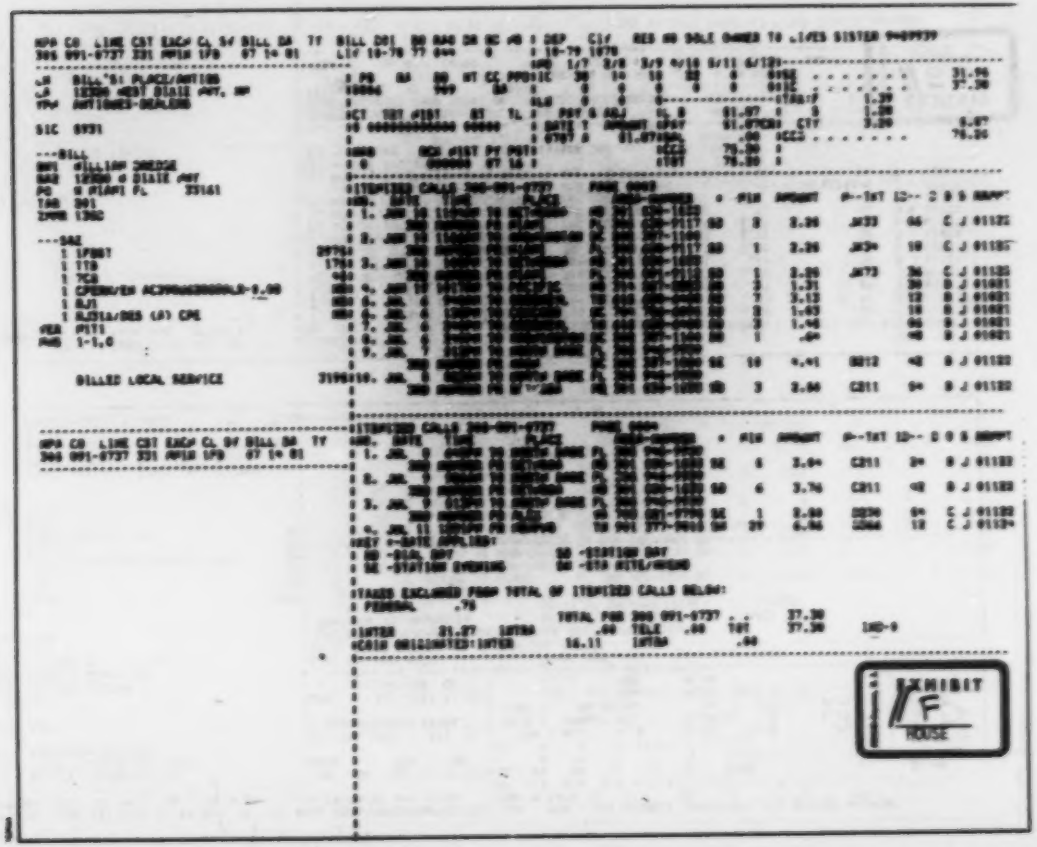
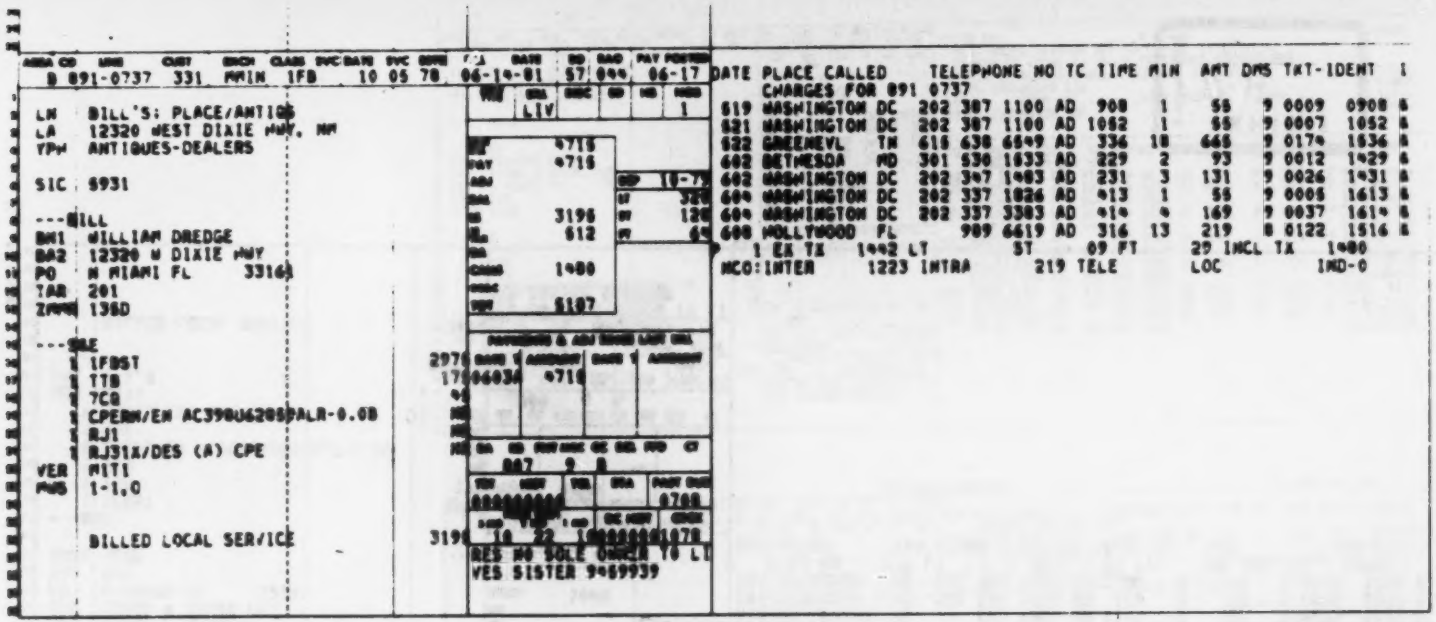


EXHIBIT F HOUSE



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AREA CD  LINE   CUST   BRCH  CLASS SVC BASE  SVC  DATE   FM    DATE     RD  BAD   PAY POSTED
  B 891-0737   331    MAIN   1FB      10 05 78  06-10-81    57  044   06-17

LN   BILL'S: PLACE/ANTIQS                    PRE  SAL  SRC   SD    MD   MSD
LA   12320 WEST DIXIE HWY. NM                     LIV                  1
YPH  ANTIQUES-DEALERS
                                             EXP      $715
SIC  5931                                    PAY      $715
                                             ADJ
---BILL                                      DISC                  DEP  10-75
BN1  WILLIAM DREDGE                          SF                    SF   325
BA2  12320 N DIXIE HWY                       SM       $198         SM   126
PO   N MIAMI FL      33161                   SL       $12          SP   65
TAR  201                                     TAX
ZAPR 1360                                    CHRG     $100
                                             MISC
                                             INV      $197

---SALE                                     PAYMENTS & ADJ ISSUED LAST DAIL
     1 1FDST                        2976     DATE I  AMOUNT  DATE I  AMOUNT
     1 TTB                          17966034 0715
     1 7C0                          9
     1 CPERM/EM AC398U6208PALR-0.0B
     1 RJ1
     1 RJ31X/DES (A) CPE
VER  MITI                                    DA  RD  PAY MISC  OC  DEL  PRO  CT
PHS  1-1,0                                       887   9   8
                                             TOT  MERT  TOL      DRA      PAST DUE
                                             888888888                    8788
                                             PAID  YTD  PAID     OC MERT    CRED
     BILLED LOCAL SERVICE           3198     10   22   1088888881078
                                             RES NO SOLE OWNER TO LI
                                             YES SISTER 9489939
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DATE	PLACE CALLED	TELEPHONE NO	TC	TIME	MIN	AMT	DMS	TKT-IDENT	I
	CHARGES FOR 891 0737								
619	WASHINGTON DC	202 387 1100	AD	908	1	55	9 0009	0908	A
621	WASHINGTON DC	202 387 1100	AD	1062	1	55	9 0007	1062	A
622	GREENEVL TN	615 638 6849	AD	336	18	668	9 0174	1636	A
602	BETHESDA MD	301 530 1633	AD	229	2	93	9 0012	1429	A
602	WASHINGTON DC	202 347 1483	AD	231	3	131	9 0026	1431	A
604	WASHINGTON DC	202 337 1826	AD	913	1	55	9 0008	1613	A
604	WASHINGTON DC	202 337 3383	AD	914	4	169	9 0037	1614	A
608	HOLLYWOOD FL	989 6619	AD	316	13	219	8 0122	1516	A
	1 EX TX 1442 LT	ST	09 FT			29 INCL TX	1480		
MCO:	INTER 1223 INTRA	219 TELE				LOC	IND-0		

EXHIBIT
11G
HOUSE

EXHIBIT
H
HOUSE

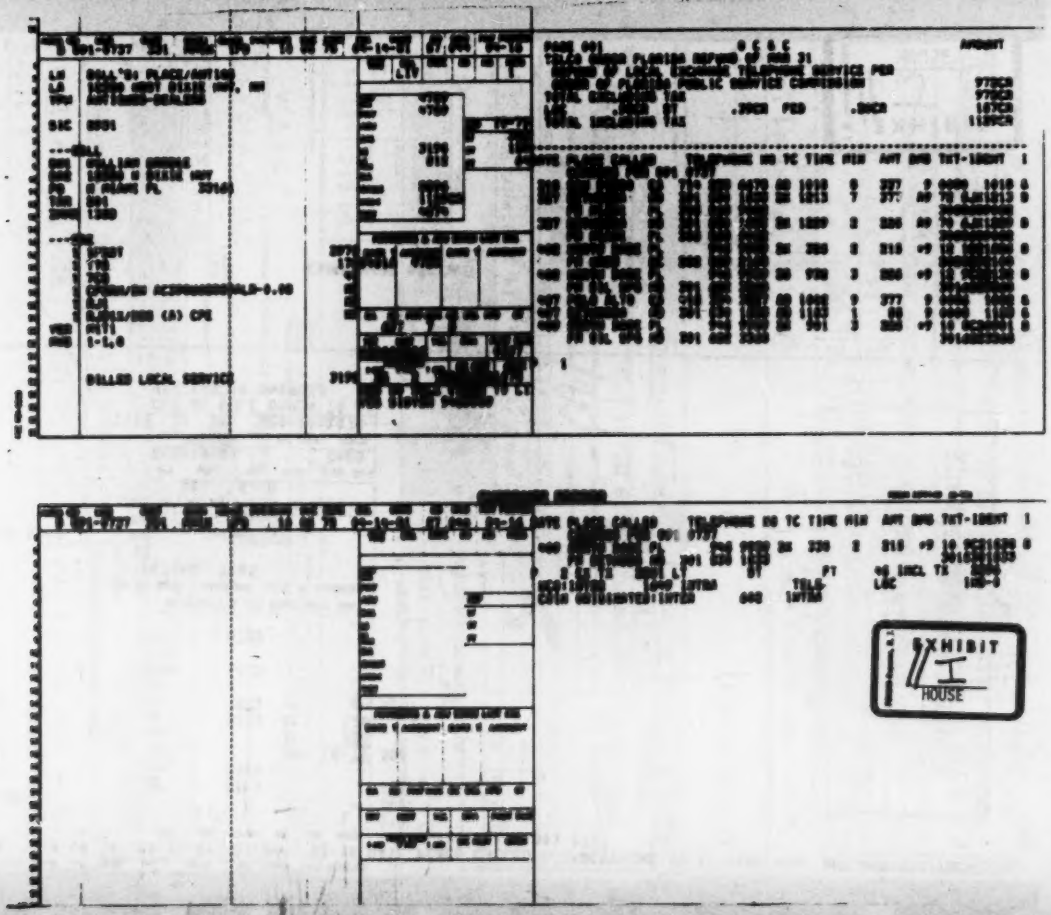
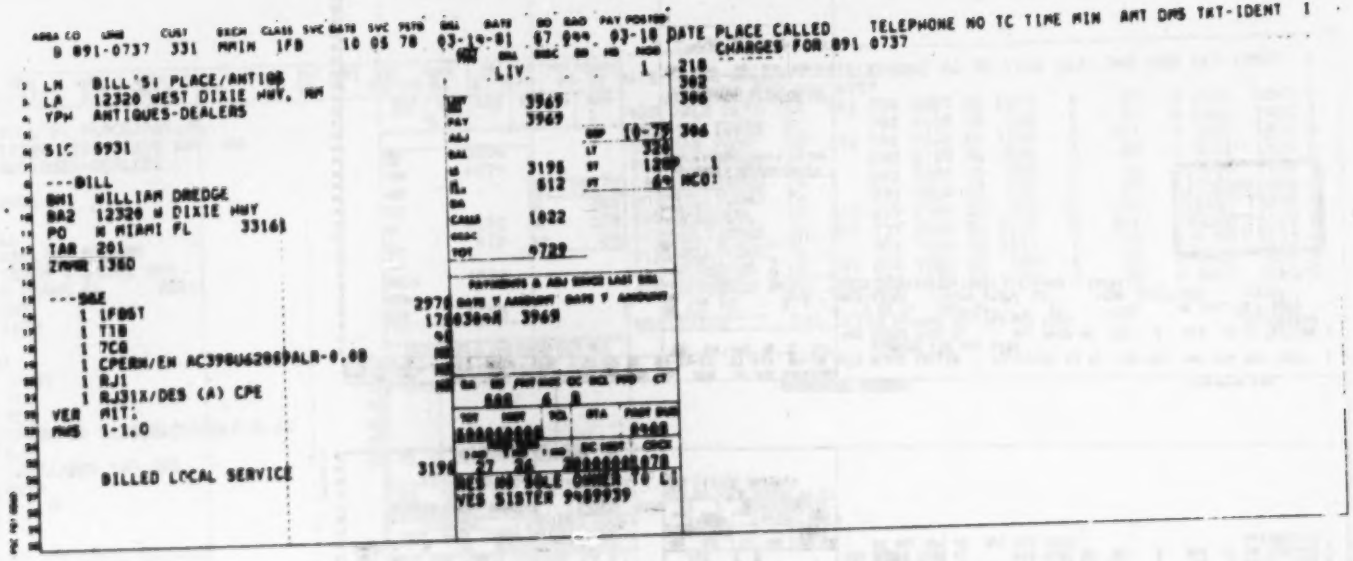


EXHIBIT
I
HOUSE

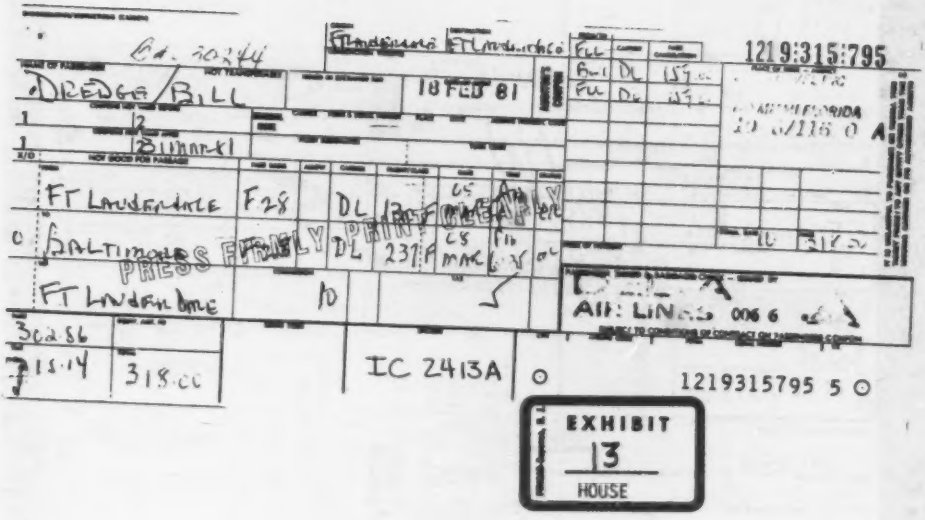


CUSTOMER RECORD

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 13



Nic'd 4-29-81

SAA:cab

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA	*	
	*	Criminal No. K-81-029
v.	*	
	*	(Conspiracy to Distribute
WILLIAM C. DREDGE	*	Methaqualone, 21 U.S.C. Section
HARRY NADOLSKI	*	846; Distribution of
HARRY NELSON CORBIN	*	Methaqualone, 21 U.S.C. Section
CHARLES J. HOGAN	*	841(a)(1); Interstate Travel in
	*	Aid of Racketeering, 18 U.S.C.
	*	Section 1952; Use of a Facility
	*	in Interstate Commerce in Aid
	*	of Racketeering, 18 U.S.C.
	*	Section 1952; Aiding and
	*	Abetting, 18 U.S.C. Section 2)
	*	

* * * * * * *

INDICTMENT

The Grand Jury for the District of Maryland charges:

1. From on or about January, 1980 and continuously thereafter up to and including the date of the filing of this Indictment, in the State and District of Maryland, and elsewhere,

WILLIAM C. DREDGE

HARRY NADOLSKI

HARRY NELSON CORBIN

and

CHARLES J. HOGAN

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 14

defendants herein, together and with Albert Paul Benton, Vera McIe, Janice Lee Ruggiero and Morris E. Anglin, Jr., unindicted co-conspirators named herein, and others known and unknown to the Grand Jury, did willfully, knowingly and intentionally combine, conspire, confederate and agree together and with each other, to unlawfully distribute quantities of a Schedule II, Non-narcotic Controlled Substance to wit: methaqualone, in violation of Title 21, United States Code, Section 841(a)(1).

2. It was part of said conspiracy, at all times relevant to this indictment, that defendants and indicted and unindicted co-conspirators Nadolski, Corbin, Ruggiero, Benton and McIe would at various times travel in interstate commerce to the State of Florida.

3. It was further a part of said conspiracy, at all times relevant to this indictment, that defendants and indicted and unindicted co-conspirators Nadolski, Corbin and Benton would at various times in the State of Florida, meet with Dredge.

Since 21 April 1981

EXHIBIT 14 HOUSE

4. It was further a part of said conspiracy, at all times relevant to this indictment, that defendant and indicted and unindicted co-conspirators Corbin, Ruggiero and Benton would and did at various times obtain from Dredge in the State of Florida quantities of a Schedule II, Non-narcotic Controlled Substance, to wit: methaqualone.

5. It was further a part of said conspiracy, at all times relevant to this indictment, that defendant and indicted and unindicted co-conspirators Corbin, Ruggiero and Benton would, after meeting with Dredge, travel in interstate commerce from the State of Florida to the State and District of Maryland and as part of that travel would transport from the State of Florida to the State and District of Maryland the methaqualone obtained from Dredge.

6. It was further a part of said conspiracy, at all times relevant to this indictment, that defendants and indicted and unindicted co-conspirators Nadolski, Corbin, Benton, Ruggiero and McIe would, in the State and District of Maryland, distribute the Schedule II, Non-narcotic Controlled Substance, to wit: methaqualone.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, defendants and co-conspirators committed the following overt acts:

1. On or about February 6, 1980, during the pendency of the conspiracy set forth herein, defendant William C. Dredge distributed in Florida to defendant Harry Nelson Corbin and unindicted co-conspirator Janice Lee Ruggiero approximately 4700 methaqualone tablets.

2. On or about February 6, 1980, during the pendency of the conspiracy set forth herein, defendant Harry Nelson Corbin and unindicted co-conspirator Janice Lee Ruggiero, traveled in interstate commerce from the State of Florida to the State and District of Maryland and took with them to Maryland the approximately 4700 methaqualone tablets distributed to them by Dredge.

3. On or about April 3, 1980, during the pendency of the conspiracy set forth herein, defendant Harry Nadolski and unindicted co-conspirator Albert Paul Benton, traveled in interstate commerce from the State and District of Maryland to the State of Florida.

4. On or about April 3, 1980, during the pendency of the conspiracy set forth herein, defendant Harry Nadolski and unindicted co-conspirator Albert Paul Benton in the State of Florida met with defendant William C. Dredge.

5. On or about April 29, 1980, during the pendency of the conspiracy set forth herein, defendant William C. Dredge, in the State of Florida distributed to unindicted co-conspirator Albert Paul Benton a quantity of methaqualone.

6. On or about April 29, 1980, during the pendency of the conspiracy set forth herein, unindicted co-conspirator Albert Paul Benton traveled in interstate commerce from the State of Florida to the State and District of Maryland and took with him to Maryland the quantity of methaqualone distributed to him by defendant Dredge.

7. Beginning on or about April 29, 1980, during the pendency of the conspiracy set forth herein, the methaqualone distributed to unindicted co-conspirator Albert Paul Benton by defendant William C. Dredge was distributed in the State and District of Maryland.

8. On or about May 6, 1980, during the pendency of the conspiracy set forth herein, defendant Harry Nadolski transported a sum of money to defendant William C. Dredge by use of a facility of interstate commerce, that is, the Federal Express Company, from the State and District of Maryland to the State of Florida.

9. On or about May 9, 1980, during the pendency of the conspiracy set forth herein, defendant William C. Dredge, in the State of Florida, distributed a quantity of methaqualone to unindicted co-conspirator Albert Paul Benton.

10. On or about May 9, 1980, during the pendency of the conspiracy set forth herein, unindicted co-conspirator Albert Paul Benton traveled in interstate commerce from the State of Florida to the State and District of Maryland and took with him to Maryland the quantity of methaqualone distributed to him by defendant Dredge.

11. Beginning on or about May 9, 1980, during the pendency of the conspiracy set forth herein, the methaqualone distributed to unindicted co-conspirator Albert Paul Benton by defendant William C. Dredge was distributed in the State and District of Maryland.

12. On or about May 14, 1980, during the pendency of the conspiracy set forth herein, defendant Harry Nadolski transported a sum of money to defendant William C. Dredge by use of a facility of interstate commerce, that is, the Federal Express Company, from the State and District of Maryland to the State of Florida.

13. On or about May 21, 1980, during the pendency of the conspiracy set forth herein, defendant William C. Dredge, in the State of Florida, distributed a quantity of methaqualone to unindicted co-conspirator Albert Paul Benton.

14. On or about May 21, 1980, during the pendency of the conspiracy set forth herein, unindicted co-conspirator Albert Paul Benton traveled in interstate commerce from the State of Florida to the State and District of Maryland and took with him to Maryland the quantity of methaqualone distributed to him by defendant Dredge.

15. Beginning on or about May 21, 1980, during the pendency of the conspiracy set forth herein, the methaqualone distributed to unindicted co-conspirator Albert Paul Benton by William C. Dredge was distributed in the State and District of Maryland.

16. On or about June 3, 1980, during the pendency of the conspiracy set forth herein, defendant William C. Dredge, in the State of Florida, distributed a quantity of methaqualone to unindicted co-conspirator Albert Paul Benton.

17. On or about June 3, 1980, during the pendency of the conspiracy set forth herein, unindicted co-conspirator Albert Paul Benton traveled in interstate commerce from the State of Florida to the State and District of Maryland and took with him to Maryland the quantity of methaqualone distributed to Benton by defendant Dredge.

18. Beginning on or about June 4, 1980, during the pendency of the conspiracy set forth herein, the methaqualone distributed to unindicted co-conspirator Albert Paul Benton by defendant William C. Dredge was distributed in the State and District of Maryland.

19. On or about May, 1980, during the pendency of the conspiracy set forth herein, defendant Charles J. Hogan met with unindicted co-conspirator Albert Paul Benton in Baltimore, Maryland. During the meeting, defendant Charles J. Hogan received from Albert Paul Benton

monies which had been obtained as proceeds from the distribution of methaqualone in the Baltimore Metropolitan Area. The monies were given by Benton to Hogan to be transported by Hogan to defendant William C. Dredge.

20. On or about January 29, 1981, during the pendency of the conspiracy set forth herein, defendant William C. Dredge traveled in interstate commerce from the State of Florida to the State and District of Maryland.

21. On or about March 5, 1981, during the pendency of the conspiracy set forth herein, defendant William C. Dredge traveled in interstate commerce from the State of Florida to the State and District of Maryland.

21 U.S.C. Section 846

18 U.S.C. Section 2

COUNT TWO

And the Grand Jury for the District of Maryland further charges:

That on or about the 29th day of April, 1980, in the State and District of Maryland,

WILLIAM C. DREDGE

and

HARRY NADOLSKI

knowingly and intentionally did unlawfully distribute a quantity of a Schedule II, Non-narcotic Controlled Substance, to wit: methaqualone.

21 U.S.C. Section 841(a)(1)

18 U.S.C. Section 2

COUNT THREE

And the Grand Jury for the District of Maryland further charges:

That on or about the 9th day of May, 1980, in the State and District of Maryland,

WILLIAM C. DREDGE

and

HARRY NADOLSKI

knowingly and intentionally did unlawfully distribute a quantity of a Schedule II, Non-narcotic Controlled Substance, to wit: methaqualone.

21 U.S.C. Section 841(a)(1)

18 U.S.C. Section 2

COUNT FOUR

And the Grand Jury for the District of Maryland further charges:

That on or about the 21st day of May, 1980, in the State and District of Maryland,

WILLIAM C. DREDGE

and

HARRY NADOLSKI

knowingly and intentionally did unlawfully distribute a quantity of a Schedule II, Non-narcotic Controlled Substance, to wit: methaqualone.

21 U.S.C. Section 841(a)(1)

18 U.S.C. Section 2

COUNT FIVE

And the Grand Jury for the District of Maryland further charges:

That on or about the 4th day of June, 1980, in the State and District of Maryland,

WILLIAM C. DREDGE

and

HARRY NADOLSKI

knowingly and intentionally did unlawfully distribute a quantity of a Schedule II, Non-narcotic Controlled Substance, to wit: methaqualone.

21 U.S.C. Section 841(a)(1)

18 U.S.C. Section 2

COUNT SIX

And the Grand Jury for the District of Maryland further charges:

That on or about April 3, 1980, in the State and District of Maryland,

HARRY NADOLSKI

did travel in interstate commerce from the State and District of Maryland to the State of Florida, with the intent to further unlawful activities: that is to promote, manage, establish, carry-on or facilitate the promotion, management, establishment or carrying on of an unlawful activity, to wit: violations of Title 21, United States Code, Sections 846 and 841(a)(1), conspiracy to distribute and distribution of methaqualone, and thereafter the said defendant, Harry Nadolski, did perform or attempt to perform acts to promote, manage, establish, carry-on or facilitate the promotion, management, establishment or carrying on of said unlawful activity.

18 U.S.C. Section 1952

18 U.S.C. Section 2

COUNT SEVEN

And the Grand Jury for the District of Maryland further charges:

That on or about May 6, 1980, in the State and District of Maryland,

WILLIAM C. DREDGE

and

HARRY NADOLSKI

did use a facility in interstate commerce from the State and District of Maryland to the State of Florida, with the intent to further unlawful activities: that is to promote, manage, establish, carry-on or facilitate the promotion, management, establishment or carrying on of an unlawful activity, to wit: violations of Title 21, United States Code, Sections 846 and 841(a)(1), conspiracy to distribute and distribution of methaqualone, and thereafter the said defendants, William C. Dredge and Harry Nadolski, did perform or attempt to perform acts to promote, manage, establish, carry-on or facilitate the promotion, management, establishment or carrying on of said unlawful activity.

18 U.S.C. Section 1952

18 U.S.C. Section 2

COUNT EIGHT

And the Grand Jury for the District of Maryland further charges:

That on or about May 14, 1980, in the State and District of Maryland,

WILLIAM C. DREDGE

and

HARRY NADOLSKI

did use a facility in interstate commerce from the State and District of Maryland to the State of Florida, with the intent to further unlawful activities: that is to promote, manage, establish, carry-on or facilitate the promotion, management, establishment or carrying on of an unlawful activity, to wit: violations of Title 21, United States Code, Sections 846 and 841(a)(1), conspiracy to distribute and distribution of methaqualone, and thereafter the said defendants, William C. Dredge and Harry Nadolski, did perform or attempt to perform acts to promote, manage, establish, carry-on or facilitate the promotion, management, establishment or carrying on of said unlawful activity.

18 U.S.C. Section 1952

18 U.S.C. Section 2

I hereby attest and certify on 1/11/89 that the foregoing document is a full, true and correct copy of the original on file in my office and in my legal custody.

JOSEPH A. HAAS
CLERK, U. S. DISTRICT COURT
DISTRICT OF MARYLAND
By Karen Y. Thoyé Deputy

Russell T. Baker, Jr.
Russell T. Baker, Jr.
United States Attorney

A TRUE BILL:

Neal J. Clarkin

FOREMAN

CRIMINAL DOCKET - U.S. District Court

DREDGE, WILLIAM C.

81 0209 1

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846; 18:2	Conspiracy to Distribute Sch. II NNCS: Methaqualone; Aiding & Abetting (Ct. 1)	1
21:841(a)(1); 18:2	Distribution of Sch. II NNCS: Methaqualone; Aiding & Abetting (Cts. 2, 3, 4 & 5)	4
18:1952 & 2	Use of Facility in Interstate Commerce in Aid of Racketeering; Aiding & Abetting (Cts. 7 & 8)	2
	Voluntary dismissed 4/29/81	
	Reinstated 5/27/81	

U.S. MAG. CASE NO.

BAIL • RELEASE: $ 500 — Date 4/29/81

SENTENCE: 3/15/82

H. KEY DATES & INTERVALS

ARREST or U.S. Custody Began	INDICTMENT XX	ARRAIGNMENT	TRIAL	Disposition of Charges	SENTENCE
5/11/81	4/29/81	6/12/81		10/9/81	3/15/82
First Appearance: 6/12/81		1st Plea: 6/12/81			
		Final Plea: 10/9/81			

Rel.: 5/11/81

MAGISTRATE

	DATE	INITIAL/NO.
Search Warrant Issued		
Search Warrant Return		
Summons Issued		
Summons Served		
Arrest Warrant Issued		
COMPLAINT		
OFFENSE (As Completed)		

INITIAL APPEARANCE DATE

PRELIMINARY EXAMINATION — Date Scheduled

REMOVAL HEARING — Date Held

WAIVED — NOT WAIVED

INTERVENING INDICTMENT

Tape Number

INITIAL/NO.

OUTCOME

DISMISSED

HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT

HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst.

Reid H. Weingarten, Dept. Justice
Steven A. Allen, AUSA
2-4822

ATTORNEYS

Dwight Pettit, Esq.
222 St. Paul Place
539-5822 or
1621 New Hampshire Ave., N.W., Washington, D.C.
(202) 387-1100

NADOLSKI (2); CORBIN (3); HOGAN (4)

DATE	PROCEEDINGS
	Assigment Copies Circulated - 6/2/81-kma
3/15/82	U.S. Costs: $20.00

Co-counsel
Lawrence A. Katz, Esq.
Zuckerman, Spaeder, Taylor & Kolker
1800 M St., N.W.#375N
Washington, D.C. 20036

Peter B. Kolker
Roger C. Spaeder
Same as Katz

United States Senate

(FOR PAYMENTS OF FEES & COSTS SEE DOCKET SHEET)

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 16

EXHIBIT 16 HOUSE

FORM AO-258

OPPOSITE THE APPLICABLE DOCKET ENTRIES SHOW, IN SECTION V, ANY OCCURRENCE OF EXCLUDABLE DELAY PER 18 USC § 3161(h). K-81-04

DATE 1981	IV. PROCEEDINGS (continued) (DOCUMENT NO.) PAGE TWO	V. EXCLUDABLE DELA
April 29	(1) Indictment for violation of U.S.C., Title 21, Sections 846 and 841(a)(1) and Title 18, Sections 1952 and 2 (Conspiracy to Distribute Sch. II NNCS: Methaqualone; Distribution of Sch. II NNCS: Methaqualone; Interstate Travel in Aid of Racketeering; Use of Facility in Interstate Commerce in Aid of Racketeering; Aiding & Abetting).	
" "	(2) Motion of United States to "SEAL" Indictment Pursuant to Rule 6(e), Federal Rules of Criminal Procedure, and Order (Thomsen, J.) thereon as prayed.	
" "	(3) Request of United States Attorney for issuance of Bench Warrant as to Defendant DREDGE, Recommendation as to Bail, and Order (Thomsen, J.) thereon as prayed.	
" 30	(4) Bench Warrant as to Defendant DREDGE issued. (Executed 5/11/81)	
May 4	(5) Request of United States Attorney for issuance of Bench Warrant as to Defendant HOGAN, Recommendation as to Bail, and Order (Thomsen, J.) thereon as prayed.	
" "	(6) Bench Warrant as to Defendant HOGAN issued. (Detainer filed in Fla. 6/18/81)	
" 14	(7) Writ of Habeas Corpus as to Defendant CORBIN and Order (Goetz, U.S. Magis.,) directing issuance of said Writ as prayed.	
" 15	(8) Writ of Habeas Corpus as to Defendant NADOLSKI and Order (Rosenberg, U.S. Magis.,) directing issuance of said Writ as prayed (Executed: 5/22/81)	
" 20	(9) Order (Palermo, U.S. Magis., S. District. Fla.,) dated 5/11/81, that Defendant DREDGE execute unsecured bond in the amount of $500,000.00 with conditions as therein set forth, and attachments.	
" "	(10) Recognizance as to Defendant DREDGE dated 5/11/81.	
" "	(11) Appearance of Jesse J. McCrary, Jr., Esq. as Counsel on behalf of Defendant DREDGE.	
" "	(12) Waiver of Defendant DREDGE of Removal Hearing.	
" "	(13) Order of Removal (Palermo, U.S. Magis.,S. Dist., Fla.,) dated 5/14/81 as to Defendant DREDGE.	

MicroFilmed Date JUN 2 1981

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

NADOLSKI, HARRY

K

1607

0416 1 1607

4 29 81 0209 2

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:846; 18:2	Conspiracy to Distribute Sch. II NNCS: Methaqualone; Aiding & Abetting (Ct. 1)	1
21:841(a)(1); 18:2	Distribution of Sch. II NNCS: Methaqualone; Aiding & Abetting (Cts. 2, 3, 4 & 5)	4
18:1952 & 2	Interstate Travel in Aid of Racketeering; Aiding & Abetting (Ct. 6)	1
18:1952 & 2	Use of Facility in Interstate Commerce in Aid of Racketeering; Aiding & Abetting (Cts. 7 & 8)	2

Bail 4/29/81 Revoked 5/7/81

U.S. MARS CASE NO.

BAIL - RELEASE

$500,000

6/19/81

9/10/81

10/19/81

II. KEY DATES & INTERVALS

ARREST or	INDICTMENT/INFORMATION	ARRAIGNMENT	TRIAL
6/19/81	4/29/81	6/19/81	
Appeared on Writ		1st Plea: 6/19/81	True Set For
Bond Waived		Final Plea: 9/10/81	True Began
True Appearance: 6/19/81			True Ended

MAGISTRATE

	DATE	INITIAL/NO.		INITIALS/NO.	OUTCOME
Search Warrant: Issued / Return			PRETRIAL APPEARANCE DATE		DISMISSED
Summons: Issued / Served			PRELIMINARY EXAMINATION / REMOVAL HEARING (OR)		HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
Arrest Warrant Issued			WAIVED / NOT WAIVED	Tape Number	HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW
COMPLAINT			INTERVENING INDICTMENT		
OFFENSE (In Complaint)					

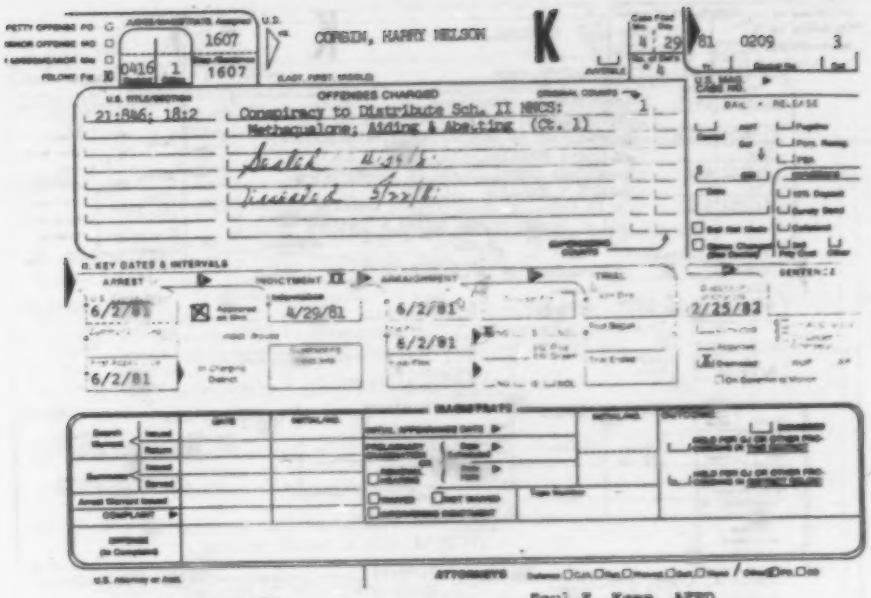
U.S. Attorney or Asst.
Steven A. Aller, AUSA
2-4822

ATTORNEYS
Will Abercrombie; Allen B. Rabineau
10 S. Calvert St.
Baltimore, MD 21202 (841-6886)

SEE DEFENDANT NO. 1 DOCKET SHEET

DATE	DOCUMENT NO.	PROCEEDINGS	EXCLUDABLE DELAY
		A. Samuel Peregoff 10 S. Calvert Street Baltimore, Maryland 21202 539-0442	

FORM AO 256



CORBIN, HARRY NELSON

K

4 29 81 0209 3

1607

0416 1 1607

OFFENSES CHARGED

21:846; 18:2 Conspiracy to Distribute Sch. II NNCS: Methaqualone; Aiding & Abetting (Ct. 1)

Seated 11/24/81

Dismissed 5/22/81

1

6/2/81

4/29/81

6/2/81

6/2/81

6/2/81

2/25/82

Steven A. Allen, AUSA
2-4822

Paul F. Kemp. AFPD

SEE DEFENDANT NO. 1 DOCKET SHEET

DATE — PROCEEDINGS

HOGAN, CHARLES J.

K

0209

OFFENSES CHARGED

21:846; 18:2 Conspiracy to Distribute Sch. II NNCS: Methaqualone; Aiding & Abetting (Ct. 1)

Dated #25'81

Unsatz $25/81

6/30/81

4/29/81

6/30/81

6/30/81

9/8/81

9/8/81

9-22-81

5/4/81

Steven A. Allen, AUSA
2-4822

Edward Reif, Esq.
2000 Market Street, Suite 1216
Philadelphia, Pa. 19103
215-561-1111

SEE DEFENDANT NO. 1 DOCKET SHEET

DATE | PROCEEDINGS

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U.S. vs WILLIAM C. DREDGE, et al

Yr. K-81-0209 Def.

DATE 1981	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
May 22	(14)	Order (Rosenberg, U.S. Magis.) UNSEALING Indictment.				
" 26	(15)	Motion and Order (Kaufman, J.) Continuing Arraignment as to Defendant CORBIN from 5/29/81 to 6/12/81.				
" 29	——	Arraignment of Defendant NADOLSKI postponed. See memo in file.	2	5-29-81 6-12-81	22	TU
" "	(16)	Writ of Habeas Corpus as to Defendant CORBIN and Order (Rosenberg, U.S. Magis.,) directing issuance of said Writ as prayed.				
June 2	(17)	Financial Affidavit of Defendant CORBIN.				
" "	(18)	Order (Rosenberg, U.S. Magis.,) "APPOINTING" Federal Public Defender as Counsel on behalf of Defendant CORBIN.				
" "	(19)	Appearance of Paul F. Kemp, APPD, as counsel on behalf of Defendant CORBIN.				
" "	——	Defendant CORBIN arraigned and plead "NOT GUILTY" as to Count No. 1, before Rosenberg, U.S. Magis.				
" "	(20)	Memorandum (Rosenberg, U.S. Magis.) re: conditions of release not set as to Defendant CORBIN for reasons as therein set forth.				
" 3	——	Arraignment of Defendant NADOLSKI postponed. See Memo on file.		6-12-81		
" 4	(21)	Writ of Habeas Corpus Ad Prosequendum as to Defendant HOGAN, and Order (Klein, U.S. Magis.) thereon directing issuance of said Writ as prayed. (Unexecuted)				
" 10	(22)	Letter from Counsel for Defendant CORBIN to Court dated June 1, 1981, re: Scheduling of Arraignment.				
" 12	(23)	Appearance of Dwight Pettit, Esq., as counsel on behalf of Defendant DREDGE.				
" "	——	Defendant DREDGE arraigned and plead "Not Guilty" as to each of Count Nos. 1,2,3,4,5, 7, and 8before Rosenberg, U.S. Magis.				
" "	——	Arraignment as to Defendant HOGAN postponed. See memo on file.				
" "	(24)	Appearance of Allen B. Rabineau, Esq., as counsel on behalf of Defendant NADOLSKI.				
" "	(25)	Financial Affidavit of Defendant NADOLSKI.				
" "	——	Arraignment as to Defendant NADOLSKI postponed. See memo on file.		6-12-81		
" "	——	Pretrial Conference held before Kaufman, C.J.				

AO 258A

Interval (see Section II) | Start Date End Date | Ltr. Code | Total Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

WILLIAM C. DREDGE
CRIMINAL NO. K-81-0209

DATE 1981	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
June	17	—— Arraignment as to Defendant NADOLSKI postponed. See memo on file.				
"	"	(26) Motion of Defendant CORBIN to Dismiss Indictment, and Request for Hearing. (c/s)				
"	18	(27) Motion of Defendant CORBIN to Suppress Tangible Evidence, Points and Authorities, and Request for Hearing. (c/s)				
"	"	(28) Motion of Defendant CORBIN for Severance of Trial, Points and Authorities, and Request for Hearing. (c/s)				
"	19	—— Defendant NADOLSKI arraigned and plead "Not Guilty" as to All Counts before Kaufman, C.J.				
"	"	(29) Appearance of Will Abercrombie, Jr., Esq., as counsel on behalf of Defendant NADOLSKI for arraignment purposes only.				
"	"	(30) Order (Kaufman, C.J.) that Defendant NADOLSKI execute a Secured Bond in the amount of $500,000.00 with conditions as therein set forth.				
"	24	(31) Writ of Habeas Corpus Ad Prosequendum as to Defendant HOGAN and Order (Goetz, U.S. Magis.) directing issuance of said Writ as prayed.				
"	"	(32) Letter from Dr. Wayne S. Berry, BCJ., to the Court re: Medical treatment of Defendant NADOLSKI.				
"	29	(33) Motion of Defendant DREDGE for Bill of Particulars, and Request for Hearings. (c/s)				
"	"	(34) Motion of Defendant DREDGE for Severance. (c/s)				
"	"	(35) Motion of Defendant DREDGE for Discovery, and Request for Hearing. (c/s)				
"	30	(36) Appearance of Edward Reif, Esq., as counsel on behalf of Defendant. Hogan				
"	"	—— Defendant HOGAN arraigned and plead "Not Guilty" as to Count No. 1 before Rosenberg, U.S. Magis.				
"	"	—— as to Defendant HOGAN Bail/not set in light of Defendant's present service of Florida sentence and federal charges in Philadelphia.				
July	2	—— Pretrial Conference held before Kaufman, C.J.				
July	8	(37) Writ of Habeas Corpus Ad Prosequendum as to Defendant HOGAN and Order (Smalkin, U.S. Magis.) directing issuance of said Writ as prayed.				
"	"	(38) Writ of Habeas Corpus Ad Prosequendum as to Defendant NADOLSKI and Order (Smalkin, U.S. Magis.) directing issuance of said Writ as prayed. (Executed)				

AO 258A

Interval (per Section II) | Start Date / End Date | Ltr. Code | Total Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs WILLIAM C. DREDGE, et al

K-81-0209
Yr. | Docket No. | Def.

DATE 1981	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
July 8	(39) Writ of Habeas Corpus Ad Prosequendum as to Defendant CORBIN and Order (Smalkin, U.S. Magis.) directing issuance of said Writ as prayed. (Unexecuted)				
" 17	(40) Writ of Habeas Corpus as to Defendant NADOLSKI and Order (Kaufman, C.J.) directing issuance of said Writ as prayed.				
" "	(41) Letter to Court from AFPD Kemp dated 7/13/81 re: Waiver of Defendant CORBIN of right to be present at hearing scheduled for 7/17/81.				
" "	(42) Appearance of Roger C. Speeder, Esq., as counsel on behalf of Defendant DREDGE.				
" "	—— Hearing held before Kaufman, C.J., on representation of counsel and pending motions.	✓			
" "	(43) Order (Kaufman, C.J.) "SEALING" document as therein set forth.				
" "	—— Hearing not concluded.	✓			
" "	(44) Order (Kaufman, C.J.) "EXCLUDING" time from 5/22/81 to 6/30/81 and from 6/30/81 to 8/21/81 pursuant to 18:3161(h) as to all Defendants.			T	92 ~~70~~
" 20	(45) Appearance of Steven A. Wilder, Esq., as counsel on behalf of witness, Albert Paul Benton.				
" "	(46) Appearance of Will Abercrombie, Esq., as counsel on behalf of Defendant NADOLSKI for purpose of waiver hearing only.				
" "	—— Hearing before Kaufman, C.J., continued from July 17, 1981.				
" "	—— Oral Order (Kaufman, C.J.) directing Allen B. Rabineau, Esq., to continue as counsel for Defendant NADOLSKI.				
" "	—— Hearing not concluded - To be continued at later date.				
" 30	(47) Supplemental Memorandum of Defendant CORBIN in Support of Motion of Said Defendant to Dismiss Indictment, and attachments. (c/s)				
" "	(48) Appearance of Lawrence A. Kats, Esq., as counsel on behalf of Defendant DREDGE.				
Aug. 7	(49) Motion of all Defendants for Discovery, and Memorandum. (c/s)				

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Interval (see Section III) | Begin Conv. End Conv. | Ltr. Code | Total Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

UNITED STATES OF AMERICA vs.
WILLIAM C. DREDGE, et al
Criminal No. K-81-0209

DATE 1981	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELA (a)	(b)	(c)	(d
Aug. 7	(50)	Motion of all Defendants for a Hearing to Determine the Admissibility of Extrajudicial Declarations of Co-conspirators, and Memorandum. (c/s)				
" "	(51)	Motion of all Defendants for Discovery of Electronic Surveillance, Request for Hearing, Exhibit A, and Memorandum. (c/s)				
" "	(52)	Motion of all Defendants for a Bill of Particulars RE: Anglin-Corbin Overt Acts, and Memorandum. (c/s)				
" "	(53)	Motion of all Defendants for Election of Charges and Severance in Count One, and Memorandum. (c/s)				
" "	(54)	Motion of Defendant DREDGE to Return Seized Property and Suppress Evidence, and Memorandum. (c/s)				
" "	(55)	Motion of Defendant NADOLSKI to Suppress Intercepted Communications, and pen register, Points and Authorities, and Request for Hearing. (c/s)				
" 10	(56)	Motion of Defendant HOGAN for Severance and Memorandum. (c/s)				
" 14	(57)	Writ of Habeas Corpus Ad Prosequendum as to Defendant CORBIN and Order (Rosenberg, U.S. Magis.,) directing				
" "		Issuance of said Writ as prayed. (Executed)				
"		Pretrial conference held before Kaufman, C.J.				
" 17	(58)	Writ of Habeas Corpus Ad Testificandum as to Defendant NADOLSKI and Order (Smalkin, U.S. Magis.,) directing Issuance of said Writ as prayed. (Executed)				
" "	(59)	Letter from Edward Reif, Esq., counsel on behalf of Defendant HOGAN, to the Court re: Permission not to have Defendant attend the argument on the Motions.				
" 18	(60)	Opposition of United States to Motion of Defendants for a Hearing to Determine the Admissibility of extra-judicial declarations of co-conspirators. (c/s)				
" "	(61)	Opposition of United States to Motion of Defendants for Bill of Particulars and Discovery. (c/s)				
" "	(62)	Motion of United States for Handwriting Exemplars. (c/s)				
" "	(63)	Answer of United States to Motion of Defendants for Discovery of Electronic Surveillance. (c/s)				
" "	(64)	Opposition of United States to Motion of Defendant DREDGE to return seized property. (c/s)				
" "	(65)	Opposition of United States to Motion of Defendants for Election of Charges and Severance. (c/s)				

AO 258A

Interval (per Section 11) | Start Date / End Date | Ltr. Code | T (C

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs WILLIAM C. DREDGE, et al

K-81- 0209
Yr. | Docket No. | Def.

DATE 1981	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
Aug.	19	(66) Opposition of United States to motion of Defendant CORBIN to Dismiss Indictment and Exhibits 1,2,3,4 and 5. (c/s)				
"	21	— Hearing continued from July 20, 1981, before Kaufman, C. J.				
"	"	— Argued and held Sub-Curia.				
"	25	(67) Writ of Habeas Corpus Ad Prosequendum as to Defendant HOGAN and Order (Smalkin, U.S. Magis.) directing issuance of said Writ as prayed. (Executed)				
"	"	(68) Writ of Habeas Corpus Ad Prosequendum as to Defendant NADOLSKI and Order (Smalkin, U.S. Magis.) directing issuance of said Writ as prayed.				
"	31	(69) Memorandum and Order (Kaufman, C.J.) dated August 21, 1981, (1) that Motions of Defendant HOGAN have become "MOOT" for reasons stated in open court on August 21, 1981; (2) "SEVERING" Defendant CORBIN from trial of Defendants DREDGE & NADOLSKI; that Motions of Defendant CORBIN to Suppress Tangible Evidence and to Dismiss Indictment are held "Sub-Curia; (3) that Motions of Defendants DREDGE and NADOLSKI for Severance are "MOOT" or "WITHDRAWN;" (4) that Motions of Defendants DREDGE and NADOLSKI requiring government to elect charges and to proceed in two separate trials are "DENIED" and that Motion of Defendant CORBIN for election of charges is held "Sub-Curia;" (5) that Motion of Defendant NADOLSKI to Suppress intercepted communications has become "MOOT." If said Defendant is going to press this Motion, he is to notify the Court as therein set forth; (6) that Motion of Defendants DREDGE, NADOLSKI, and CORBIN for a pretrial hearing to determine admissibility of extra-judicial declarations has become "MOOT;" (7) that the Government submit requested information as therein set forth with regard to eletronic surveillance of Defendants; (8) that the Motion of Defendant DREDGE for the return of seized property and suppression of evidence is held Sub-Curia with respect to return of an automobile, etc.; (9) that the Motion of the Government that Defendant DREDGE submit handwriting exemplars is "GRANTED" as therein set forth; (10) that the Motion of Defendants DREDGE and NADOLSKI for Particulars is "MOOT", etc. (c/m-8/27/81-kma)				
Sept.	3	(70) Appearance of A. Samuel Peregoff, Esq., as additional counsel on behalf of Defendant NADOLSKI.				
"	"	(71) Memorandum from Court to Counsel of all Defendants confirming Memorandum and Order (Kaufman, C.J.) dated August 21, 1981.				

AO 258A

Interval (per Section II) | Start Date / End Date | Ltr. Code | Total Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1981	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DEL (a)	(b)	(c)
Sept. 8	Defendant HOGAN rearraigned and plead "GUILTY" as to Count No. 1 which was accepted by the Court before Kaufman, C.J.			
" "	——Imposition of sentence suspended pending presentence investigation as to Defendant HOGAN.			
" 10	Defendant NADOLSKI rearraigned and plead "Guilty" as to Count No. 1 and "Not Guilty" as to each of Count Nos. 2, 3,4,5,6, 7, and 8 before Kaufman, C.J. Rearraignment not concluded			
" "	—— Imposition of sentence suspended pending presentence investigation as to Defendant NADOLSKI			
" "	(72) Writ of Habeas Corpus Ad Prosequendum as to Defendant NADOLSKI and Order (Klein, U.S. Magis.) directing issuance of said Writ as prayed. (Executed)			
" 11	(73) Writ of Habeas Corpus Ad Prosequendum as to Defendant NADOLSKI and Order (Rosenberg, U.S. Magis.) directing issuance of said Writ as prayed.			
" 14	— Defendant NADOLSKI rearraigned and plead "Guilty" as to Count No. 1 and "Not Guilty" as to Counts No. 2,3,4,5, 6,7, and 8 which was accepted by the Court before Kaufman, C.J.			
" "	(74) Letter from S. Allen, AUSA, to the Court re: Scheduling of trial.			
" 16	(75) Writ of Habeas Corpus as to Defendant NADOLSKI and Order (Rosenberg, U.S. Magis.) directing issuance of said Writ as prayed.			
Sept. 21	(76) Order (Kaufman, J.) dated August 17, 1981, directing Official Court Reporter to prepare transcript of proceedings as therein set forth.			
" "	(77) Excerpt from Transcript of Proceedings before the Court (Kaufman, C.J.) on July 20, 1981.			
" 28	Def. HOGAN (78) JUDGMENT: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of one (1) year and one (1) day; Said sentence to run consecutively to the five (5) year sentence imposed by the State of Florida and concurrently with the six (6) months sentence imposed by the U.S.District Court, Eastern District of Pennsylvania. Defendant shall become eligible for parole under Title 18, U.S.C., Section 4205(b)(2), at such time as the U.S. Parole Commission may determine, Order (Kaufman,J.) dated 9-22-81)			

MicroFilmed
Date SEP 28 1981

Interval (per Section III) | Start Date / End Date | Lbr Code

PAGE FIVE

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

U.S. vs WILLIAM C. DREDGE, et al

K-81-0209
Yr. | Docket No. | Def.

DATE 1981	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
Sept. 28	(79) Writ of Habeas Corpus as to Defendant CORBIN and Order (Rosenberg, U.S. Magis.) dated September 25, 1981, directing issuance of said Writ as prayed. (				
Oct. 9	—— Defendant DREDGE rearraigned and plead "Guilty" as to Count NO. 1 and "Not Guilty" as to each of Count Nos. 2,3,4,5,7 and 8 which was accepted by the Court before Kaufman, C.J.				
" "	—— Imposition of sentence suspended pending presentence investigation as to Defendant DREDGE.				
" 16	(80) See Return of Service as to Defendant HOGAN. (Pleading No.6)				
" "	(81) Writ of Habeas Corpus as to Defendant NADOLSKI, and Order (Smalkin, U.S. Magis.) thereon directing issuance of said Writ as prayed, dated October 15, 1981.				
" 19	—— NOLLE PROSEQUI ENTERED BY UNITED STATES ATTORNEY IN OPEN COURT AS TO EACH OF COUNT NOS. 2, 3, 4, 5, 6, 7, and 8, INCLUSIVE WHICH WAS ACCEPTED BY THE COUNT AS TO DEFENDANT NADOLSKI.				
" 22	(82) JUDGMENT AS TO DEFENDANT NADOLSKI: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years as to Count No. 1. Order (Kaufman, C.J.) dated October 19, 1981.				
MicroFilmed Date OCT 23 1981	EXECUTED - SEE BACK OF COMMITMENT				
" 23	(83) SEALED				
"	(84) Order (Kaufman, C.J.) "SEALING" document as therein set forth.				
" 30	(85) Writ of Habeas Corpus as to Defendant NADOLSKI and Order (Smalkin, U.S. Magis.) dated October 26, 1981, directing issuance of said Writ as prayed. (				
Nov. 12	(86) Letter from Paul F. Kemp, AFPD, to Court dated October 30, 1981, re: Opinion of U.S. Court of Appeals, Fourth Circuit as to Defendant CORBIN. (c/m-11/10/81-ij)				
Dec. 18	(87) Letter from Court to counsel re: Fourth Circuit decision concerning outstanding charges against Defendant CORBIN.				
" 31	(88) Letter from Paul F. Kemp, AFPD to Court dated December 30, 1981, re: Pending Motion of Defendant CORBIN to Dismissing the Indictment for Violation of the Double Jeopardy Clause of the Fifth Amendment.				

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Interval (see Section II) | Start Over End Date | Ltr. Code | To Ck

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1982	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELA (a)	(b)	(c)	(d)
Jan. 19	(89) Letter from Court to Counsel and Mr. Bennett, PFD, re: Briefing on issues in regards to Motion of Defendant CORBIN to dismiss. (c/m-1/20/82-ij)				
" 28	--- Pretrial Conference held before Kaufman, J.				
Feb. 5	(90) Proffer of Facts of United States. (c/s)				
" 25	(91) Order of United States Attorney "DISMISSING" the Indictment herein as to Defendant CORBIN with Leave of Court (Kaufman, C.J.) thereon.				
	MicroFilmed Date MAR 1 1982 JUN 9 1983				
Mar. 15	(92) Appearance of Reid H. Weingarten, Esq., as counsel on behalf of United States.				
" "	(93) Appearance of Peter R. Kolker, Esq., as counsel on behalf of Defendant DREDGE.				
" "	---- COUNTS NOS. 2, 3, 4, 5, 7 and 8 ARE HEREBY NOLLE PROSSED as to defendant DREDGE.				
" "	(94) JUDGMENT AS TO DEFENDANT DREDGE: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years and fined the sum of fifteen thousand dollars ($15,000.00) as to Count No. 1. Service of the sentence of imprisonment is hereby suspended and the defendant is placed on probation for a period of five (5) years. As one of the conditions of probation, the defendant shall perform a maximum of 500 hours of community service during the said five-year term of probation. The defendant is to pay court costs.		MicroFilmed Date MAR 15 JUN 9 1983		
Apr. 15	(95) Excerpt from Transcript of Proceedings before Kaufman, C.J., dated September 10, 1981. (Filed separately)				
Oct. 14	(96) Letter from Court to Defendant NADOLSKI re: Request of Defendant to visit wife.				
1983					
May 26	(97) Motion of Def. HOGAN for Reduction of Sentence pursuant to Rule 35 FRCP.				
" "	(98) Memorandum and Order (Kaufman, C.J.) dated 5/24/83, DENYING Motion of Def. HOGAN for reduction or modification of sentence. (c/m-5/26/83-kma)				

AO 256A

Interval (per Section II) | Start Date / End Date | Ltr. Code

AO 256A
UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs WILLIAM C. DREDGE, et al

PAGE SIX
Yr. 81 Docket No. 00209 Def.

DATE 1983	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
Sept. 15	(99) Motion of Def. HOGAN for Reduction of Sentence.				
" 29	(100) Order (Kaufman, C.J.) "DENYING" Motion of Def. HOGAN for Reduction of Sentence. (c/m-10/3/83-kma)				

I hereby attest and certify on 1/11/89 that the foregoing document is a full, true and correct copy of the original on file in my office and in my legal custody.

JOSEPH A. HAAS
CLERK, U. S. DISTRICT COURT
DISTRICT OF MARYLAND
By Karen G. Mayé Deputy

Interval (per Section II) | Start Date / End Date | Ltr. Code | Total Days

U.S. Department of Justice

United States Attorney
District of Maryland

F.H.E

SAA:cab

United States Courthouse, Eighth Floor
101 West Lombard Street
Baltimore, Maryland 21201

301/539-2940
FTS/923-4622

September 11, 1981

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 23

Zuckerman, Spaeder, Taylor and Kolker
Attorneys at Law
1800 M Street, N.W.
Washington, D.C. 20036

RE: United States v. William C. Dredge
Criminal No. K-81-0209

Gentlemen:

The purpose of this letter is to confirm the agreement that has been reached between the government and your client, Mr. William C. Dredge.

1. Mr. Dredge shall plead guilty to Count One of the Indictment with which he stands charged. Count One states a violation of 21 U.S.C. Section 846, namely, conspiracy to distribute methaqualone, which is punishable by imprisonment for not more than five (5) years and/or a fine of not more than $15,000, or both. Mr. Dredge admits that he is in fact guilty of the offense to which he is pleading guilty. Following the entry of the aforesaid plea, the government agrees that it will recommend the continuation of Mr. Dredge's present conditions of release until sentencing.

2. Mr. Dredge agrees to cooperate with the government on the following terms and conditions:

(a) Mr. Dredge agrees to meet with Special Agent William J. Murphy, Federal Bureau of Investigation, prior to sentencing in this case and to respond fully and truthfully on a non-attribution basis to all questions put to him by Special Agent Murphy concerning matters within his knowledge, if any, of criminal activity in the State of Maryland, including but not limited to illegal drug trafficking.

(b) In addition, Mr. Dredge has agreed to cooperate with the government according to the provisions of Appendix A which is attached hereto and incorporated as a part hereof.

(c) The government has agreed that it will not call Mr. Dredge as a witness in any case, including grand jury proceedings and any other judicial proceeding arising out of or relating to the subject of his cooperation pursuant to this agreement. Mr. Dredge understands that he is subject to being called as a witness by a party, not the government, or by the court in trials and other judicial proceedings relating to the subject matter of his cooperation.

IC 319(a)

EXHIBIT 23 HOUSE

PCS
SAA

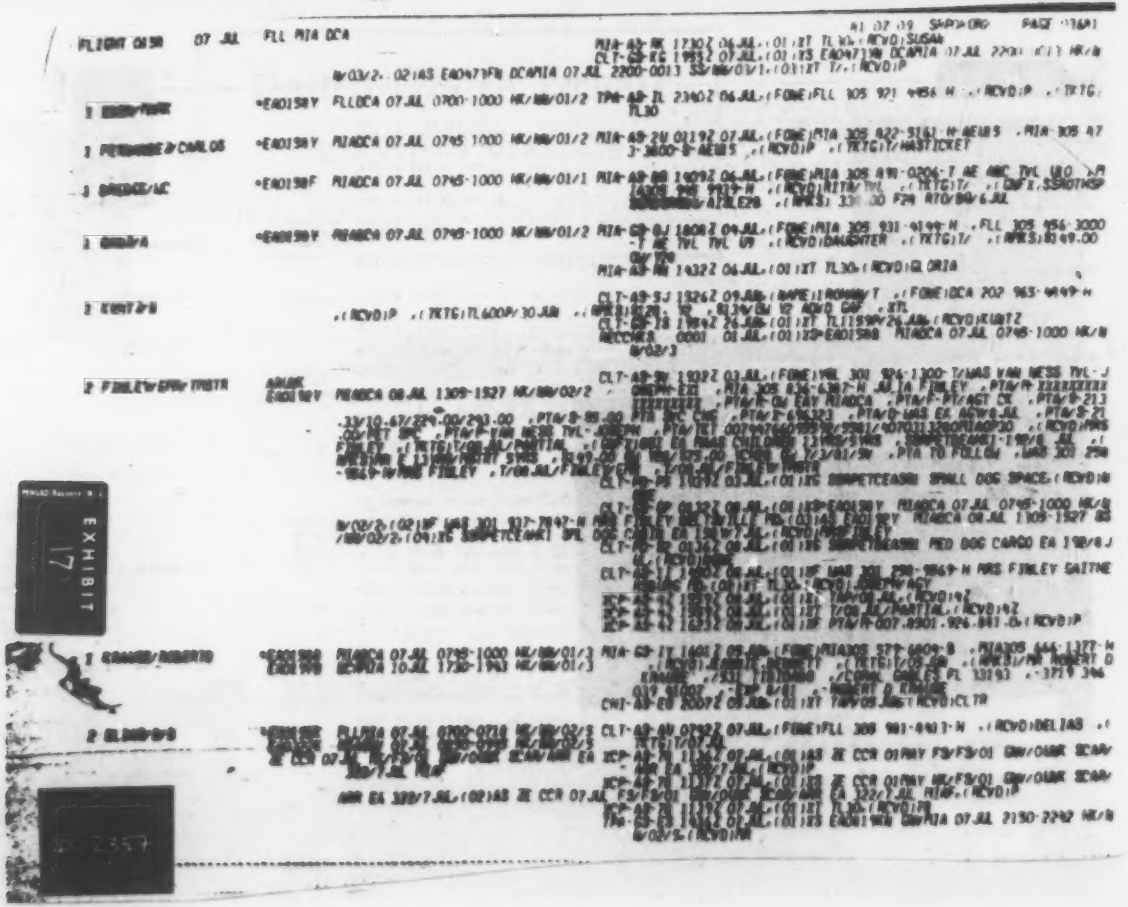
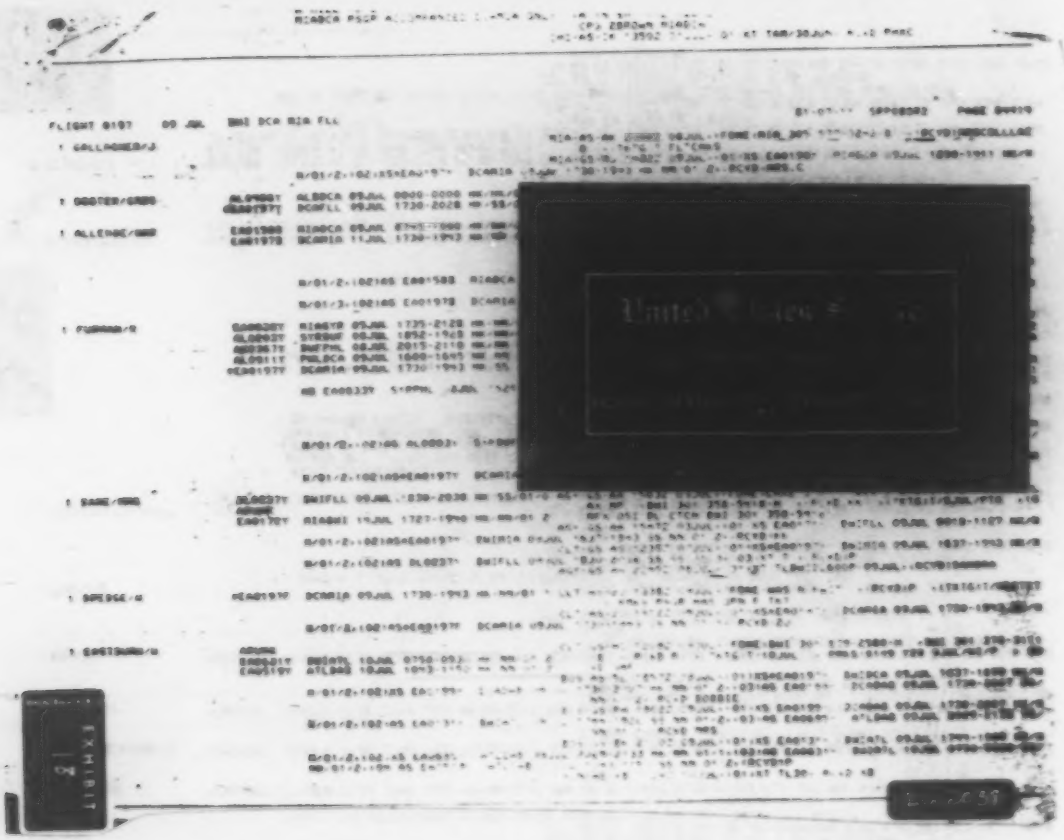


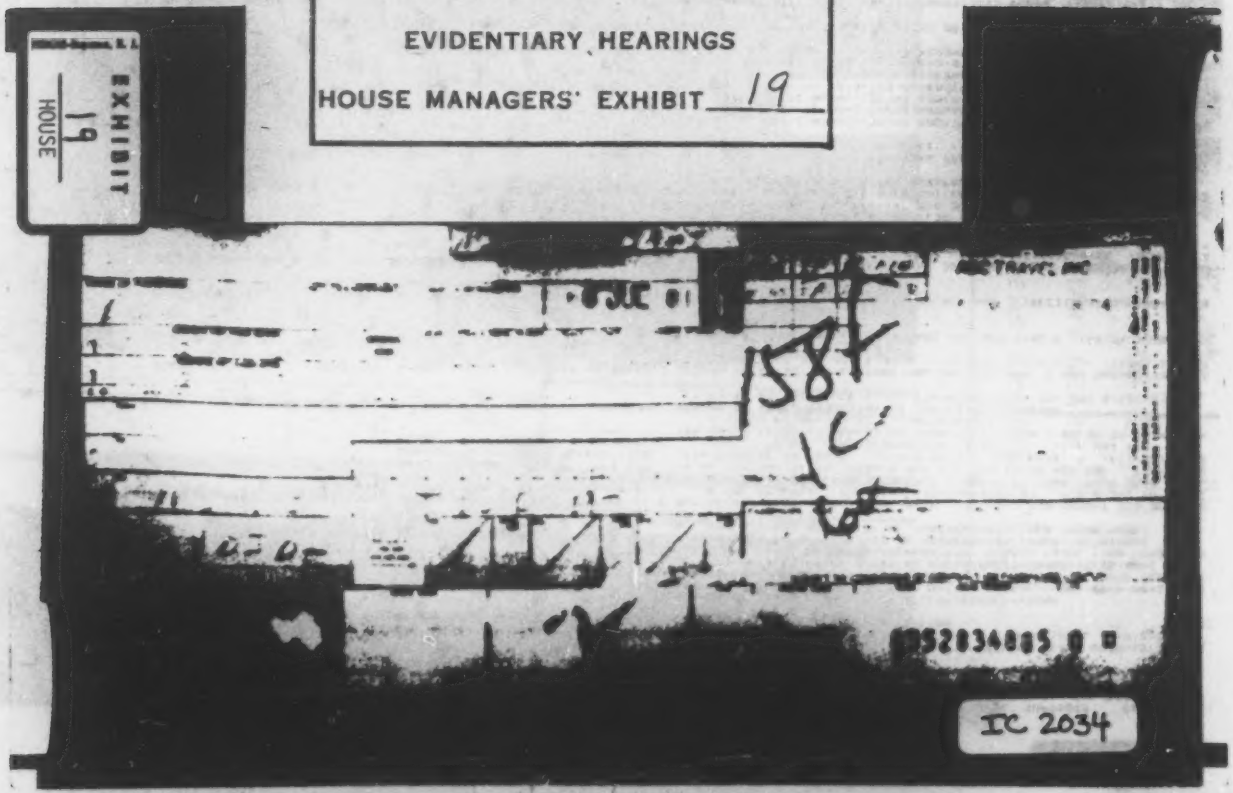
EXHIBIT 17



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 19



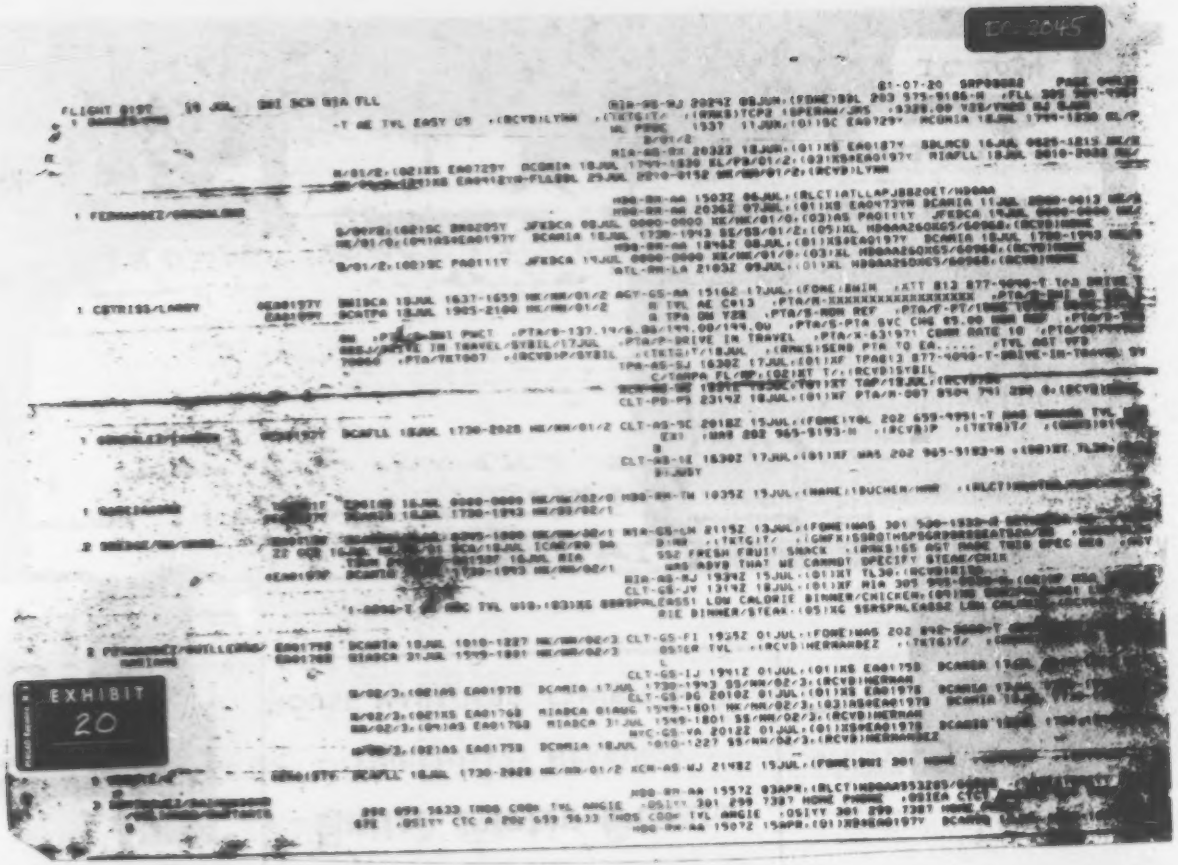
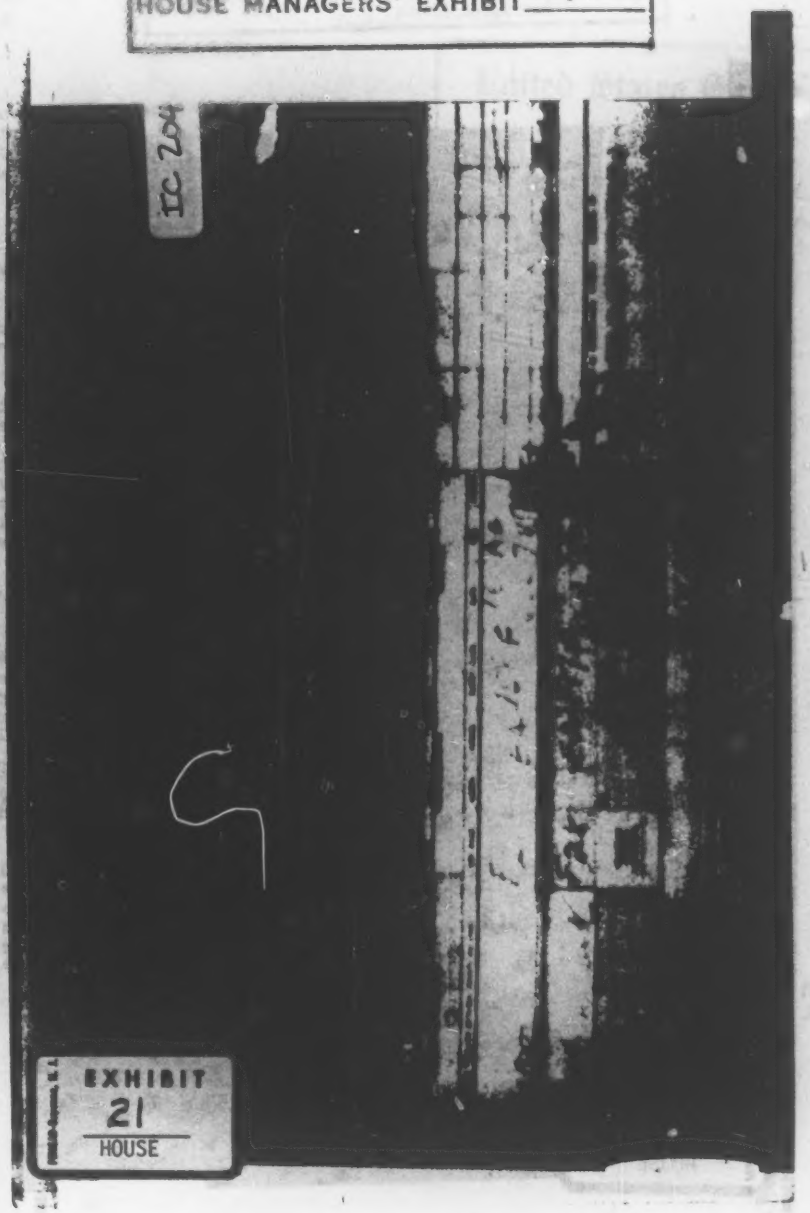


EXHIBIT 20

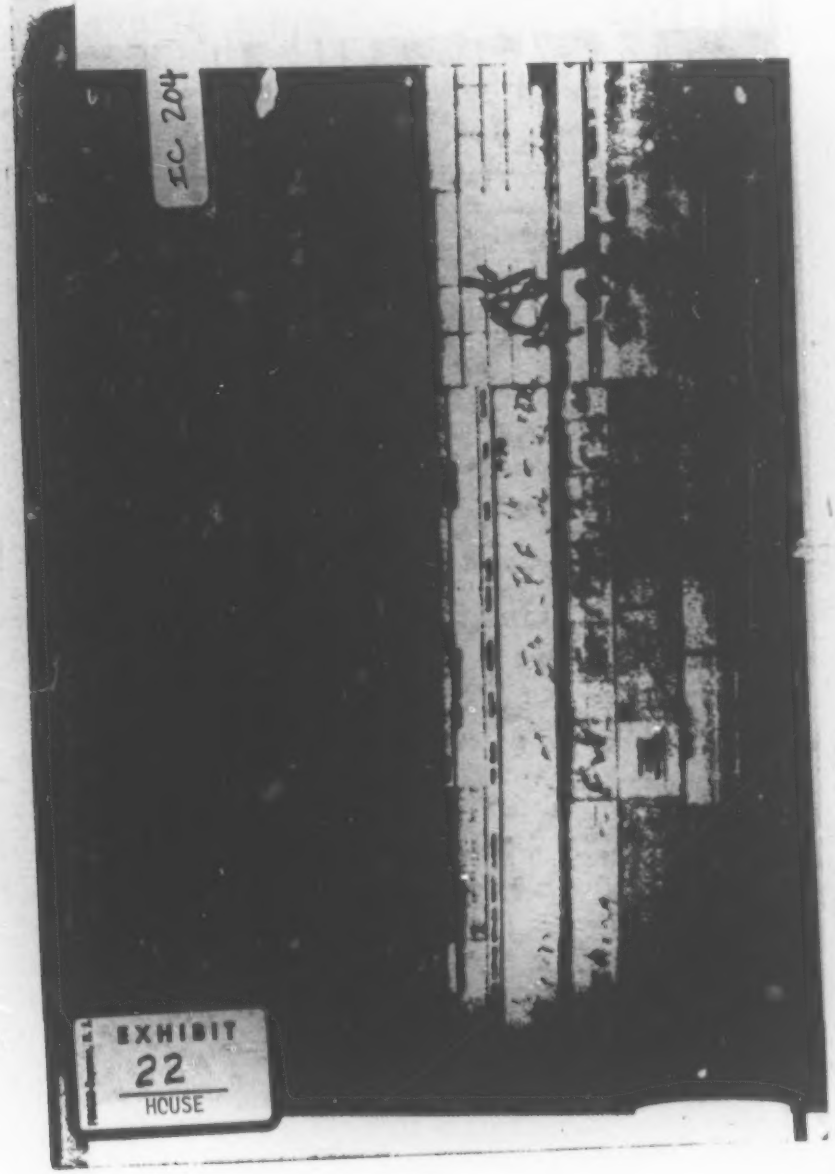
United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 21



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 22



(d) The government agrees that Mr. Dredge will not be required to be wired, electronically recorded or photographed in any activities arising out of or relating to his cooperation pursuant to the terms of this agreement.

3. In return for the fulfillment by Mr. Dredge of all of his obligations under this agreement, the government agrees as follows:

(a) When Mr. Dredge appears before the Court for sentencing for the offense to which he has agreed to plead guilty, the government will bring to the Court's attention in camera, under seal, and the Court will be entitled to consider (i) the full nature and extent of Mr. Dredge's cooperation including, but not limited to, the government's presenting Special Agent Murphy to the Court to detail the full nature and extent of Mr. Dredge's cooperation and other matters relevant to the cooperation, and (ii) all other relevant information with respect to Mr. Dredge's background, character, and conduct, including the conduct that is the subject of the counts of the Indictment as set forth in the agreed statement of facts. The government will also be entitled to bring to the Court's attention and the Court will be entitled to consider any failure by Mr. Dredge to fulfill any of his obligations under this agreement.

(b) At Mr. Dredge's sentencing, the government agrees that it will not make any recommendation to the Court with regard to what sentence should be imposed in this case. Mr. Dredge understands, however, that in the federal criminal system, sentencing is a matter solely within the discretion of the Court and the Court may impose any sentence it deems appropriate, up to and including the maximum sentence of five (5) years imprisonment and a fine of $15,000 or both. It is expressly understood by Mr. Dredge that if the Court ultimately decides for any reason to impose the maximum penalty provided by law, he will not be allowed to withdraw his guilty plea solely for that reason, and he will remain bound to fulfill all of his obligations under this agreement.

(c) At his sentencing, the government will move to dismiss with prejudice all of the counts of the Indictment against Mr. Dredge other than the count to which he has agreed to plead guilty.

(d) In order to permit Mr. Dredge to make disclosures to the government under this agreement, any information and any documents that he fully and truthfully discloses to the government relating to the subject matters which he is obligated under this agreement to disclose or provide cooperation about during the course of his cooperation pursuant to this agreement will not be used against him, directly or indirectly,

by the government in any criminal case. The government also agrees that no federal charges will be brought against Mr. Dredge utilizing evidence in the instant case which the government had knowledge of prior to the date of the agreement in the instant case. The government agrees that it will not suggest to any state authorities or initiate on its own with state authorities any criminal cases against Mr. Dredge with regard to facts and circumstances arising out of the evidence in the instant case which the government had knowledge of prior to the date of this agreement.

4. If Mr. Dredge should fail in any way to fulfill each and every one of his obligations under this agreement, then the government will be released from its commitment to honor all of its obligations to him. Thus, for example, if at any time he should knowingly withhold such evidence as may be requested of him and which he is required to disclose pursuant to the terms of this agreement from the government or otherwise not be completely truthful with the government, then the government will be free (i) to prosecute him for perjury, false declaration, false statement, and/or obstruction of justice; (ii) to prosecute the other counts of the Indictment that would otherwise have been dismissed at sentencing; (iii) to charge him with other offenses, if any, that he has committed; (iv) to use against him in all of those prosecutions the information and documents that he himself has disclosed to the government during the course of his cooperation; and (v) to recommend to the Court any sentences that the government considers appropriate, up to and including the maximum possible sentences.

5. Whether or not Mr. Dredge has fulfilled all of his obligations under this agreement shall be determined by the Court in an appropriate proceeding at which his disclosures and documents shall be admissible and at which the government shall be required to establish his breach by a preponderance of the evidence. Mr. Dredge understands and agrees that he shall not be relieved of his obligations under this agreement or permitted to withdraw his guilty pleas solely because the government is relieved of any or all of its obligations.

6. Nothing in this agreement shall be construed to protect Mr. Dredge in any way from prosecution for perjury, false declaration, false statement, in violation of 18 U.S.C. Sections 1621, 1623, or 1001, obstruction of justice for matters which the government does not have knowledge of as of the date of this agreement, in violation of 18 U.S.C. Sections 1503, 1505, or 1510, or any offense committed by him after the date of this agreement. The information and documents that he discloses to the government pursuant to this agreement may be used against him in any such prosecution.

7. Mr. Dredge waives and agrees to waive any rights under the Speedy Trial Act and Local Rule 30, and he understands that his sentencing may be delayed until his cooperation has been completed so that at sentencing the Court will have the benefit of all relevant information.

8. There are no other agreements, promises, undertakings, or understandings between Mr. Dredge and the government.

9. Neither this agreement, nor the contents thereof, may be disclosed to anyone other than (1) the defendant, members and employees with a need to know of the law firm, presently named Zuckerman, Spaedar, Taylor and Kolker, and successors thereto, (2) the Court, under seal and in camera and (3) Federal officers and agencies with a need to know.

Sincerely,

J. Frederick Motz
United States Attorney

By: _____
Steven M. Allen
Assistant United States Attorney

I have read this agreement and carefully reviewed every part of it with my attorneys. I understand it, and I voluntarily agree to it

_____ Dated: 9/12/81
William C. Dredge
Defendant

We are Mr. Dredge's attorneys. We have carefully reviewed every part of this agreement with him. To our knowledge, his decision to enter into this agreement is an informed and voluntary one.

By: _____ Dated: 9/12/81
Zuckerman, Spaeder, Taylor and Kolker
Attorneys for Defendant

APPENDIX A
Plea Agreement of William C. Dredge
September 11, 1981

As part of the plea agreement between the United States of America and William C. Dredge, William C. Dredge has agreed to cooperate with the Government as follows:

1. To introduce an undercover agent of the FBI to William C. Borders, Esquire, in an investigation of Borders, United States District Judge Alcee Hastings, Thomas and Frank Romano, and associated persons, and to disclose to Special Agent William J. Murphy any additional information which Dredge becomes privy to or learns of regarding this investigation. The government will not impose any additional obligation of cooperation on Mr. Dredge; however, if Borders requests Mr. Dredge to take additional steps to facilitate the investigation, Mr. Dredge agrees to provide reasonable additional cooperation.

U.S. Department of Justice

United States Attorney
District of Maryland

SAA:cab

United States Courthouse, Eighth Floor
101 West Lombard Street
Baltimore, Maryland 21201

301/539-2940
FTS/922-4822

October 6, 1981

Zuckerman, Spaeder, Taylor and Kolker
Attorneys at Law
1800 M Street
Washington, D.C.

Gentlemen:

The purpose of this letter is to confirm the agreement that has been reached between the government and your client, Mr. William C. Dredge, and to supplement the plea agreement letter of William C. Dredge dated October 5, 1981, which letter is incorporated by reference as a part hereof.

1. Mr. Dredge shall plead guilty to Count One of the Indictment with which he stands charged. Count One states a violation of 21 U.S.C. Section 846, namely, conspiracy to distribute methaqualone and is punishable by imprisonment for not more than five (5) years and/or a fine of not more than $15,000, or both. Mr. Dredge admits that he is in fact guilty of the offense to which he is pleading guilty. Following the entry of the aforesaid plea, the government agrees that it will recommend the continuation of Mr. Dredge's present conditions of release until sentencing.

2. Mr. Dredge agrees to cooperate with the government on the following terms and conditions:

(a) Mr. Dredge agrees to meet with Special Agent William J. Murphy, Federal Bureau of Investigation, prior to sentencing in this case and to respond fully and truthfully on a non-attribution basis to all questions put to him by Special Agent Murphy concerning matters within his knowledge, if any, of criminal activity in the State of Maryland, including but not limited to illegal drug trafficking.

(b) In addition, Mr. Dredge has agreed to cooperate with the government according to the provisions of Appendix A which is attached hereto and incorporated as a part hereof.

(c) The government has agreed that it will not call Mr. Dredge as a witness in any case, including grand jury proceedings and any other judicial proceeding arising out of or relating to the subject of

IC 319(b)

his cooperation pursuant to this agreement. Mr. Dredge understands that he is subject to being called as a witness by a party, not the government, or by the court or a grand jury at its own initiative in trials and other judicial proceedings relating to the subject matter of his cooperation.

(d) The government agrees that Mr. Dredge will not be required to be wired, electronically recorded or photographed in any activities arising out of or relating to his cooperation pursuant to the terms of this agreement.

3. In return for the fulfillment by Mr. Dredge of all of his obligations under this agreement, the government agrees as follows:

(a) When Mr. Dredge appears before the Court for sentencing for the offense to which he has agreed to plead guilty, the government will bring to the Court's attention in camera, under seal, and the Court will be entitled to consider (i) the full nature and extent of Mr. Dredge's cooperation including, but not limited to, the government's presenting Special Agent Murphy to the Court to detail the full nature and extent of Mr. Dredge's cooperation and other matters relevant to the cooperation, and (ii) all other relevant information with respect to Mr. Dredge's background, character, and conduct, including the conduct that is the subject of the counts of the Indictment as set forth in the agreed statement of facts. The government will also be entitled to bring to the Court's attention and the Court will be entitled to consider any failure by Mr. Dredge to fulfill any of his obligations under this agreement.

(b) At Mr. Dredge's sentencing, the government agrees that it will not make any recommendation to the Court with regard to what sentence should be imposed in this case. Mr. Dredge understands, however, that in the federal criminal system, sentencing is a matter solely within the discretion of the Court and the Court may impose any sentence it deems appropriate, up to and including the maximum sentence of five (5) years imprisonment and a fine of $15,000 or both. It is expressly understood by Mr. Dredge that if the Court ultimately decides for any reason to impose the maximum penalty provided by law, he will not be allowed to withdraw his guilty plea solely for that reason, and he will remain bound to fulfill all of his obligations under this agreement.

(c) At his sentencing, the government will move to dismiss with prejudice all of the counts of the Indictment against Mr. Dredge other than the count to which he has agreed to plead guilty.

(d) In order to permit Mr. Dredge to make disclosures to the government under this agreement, any information and any documents that he fully and truthfully discloses to the government relating to the subject matters which he is obligated under this agreement to disclose or provide cooperation about during the course of his cooperation pursuant to this agreement will not be used against him, directly or indirectly,

by the government in any criminal case. The government also agrees that no federal charges will be brought against Mr. Dredge utilizing evidence in the instant case which the government had knowledge of prior to the date of the agreement in the instant case. The government agrees that it will not suggest to any state authorities or initiate on its own with state authorities any criminal cases against Mr. Dredge with regard to facts and circumstances arising out of the evidence in the instant case which the government had knowledge of prior to the date of this agreement.

4. If Mr. Dredge should fail in any way to fulfill each and every one of his obligations under this agreement, then the government will be released from its commitment to honor all of its obligations to him. Thus, for example, if at any time he should knowingly withhold such evidence as may be requested of him and which he is required to disclose pursuant to the terms of this agreement from the government or otherwise not be completely truthful with the government, then the government will be free (i) to prosecute him for perjury, false declaration, false statement, and/or obstruction of justice; (ii) to prosecute the other counts of the Indictment that would otherwise have been dismissed at sentencing; (iii) to charge him with other offenses, if any, that he has committed; (iv) to use against him in all of those prosecutions the information and documents that he himself has disclosed to the government during the course of his cooperation; and (v) to recommend to the Court any sentences that the government considers appropriate, up to and including the maximum possible sentences.

5. Whether or not Mr. Dredge has fulfilled all of his obligations under this agreement shall be determined by the Court in an appropriate proceeding at which his disclosures and documents shall be admissible and at which the government shall be required to establish his breach by a preponderance of the evidence. Mr. Dredge understands and agrees that he shall not be relieved of his obligations under this agreement or permitted to withdraw his guilty plea solely because the government is relieved of any or all of its obligations.

6. Nothing in this agreement shall be construed to protect Mr. Dredge in any way from prosecution for perjury, false declaration, false statement, in violation of 18 U.S.C. Sections 1621, 1623, or 1001, obstruction of justice for matters which the government does not have knowledge of as of the date of this agreement, in violation of 18 U.S.C. Sections 1503, 1505, or 1510, or any offense committed by him after the date of this agreement. The information and documents that he discloses to the government pursuant to this agreement may be used against him in any such prosecution.

7. Mr. Dredge waives and agrees to waive any rights under the Speedy Trial Act and Local Rule 30, and he understands that his sentencing may be delayed until his cooperation has been completed so

that at sentencing the Court will have the benefit of all relevant information.

8. The parties to this agreement agree that the plea agreement letter of William C. Dredge dated October 5, 1981, referred to previously and incorporated as a part hereof shall be the document which is placed in the unsealed Court file in Criminal No. K-81-0209. The parties further agree that the letter dated October 5, 1981 which will be placed in the unsealed Court file is only a partial statement of the plea agreement of William C. Dredge and that this letter, which incorporates the October 5, 1981 document contains the full plea agreement in this case.

9. There are no other agreements, promises, undertakings, or understandings between Mr. Dredge and the government.

10. Neither this agreement, nor the contents thereof, may be disclosed to anyone other than (1) the defendant, members and employees with a need to know of the law firm, presently named Zuckerman, Spaeder, Taylor and Kolker, and successors thereto, (2) the Court, under seal and in camera and (3) Federal officers and agencies with a need to know.

Sincerely,

J. Frederick Motz
United States Attorney

By: _____
Steven A. Allen
Assistant United States Attorney

I have read this agreement and carefully reviewed every part of it with my attorneys. I understand it, and I voluntarily agree to it.

William C. Dredge Dated: 10-9-81
William C. Dredge
Defendant

We are Mr. Dredge's attorneys. We have carefully reviewed every part of this agreement with him. To our knowledge, his decision to enter into this agreement is an informed and voluntary one.

By: _____ Dated: 10/9/81
Zuckerman, Spaeder, Taylor and Kolker
Attorneys for Defendant

APPENDIX A
Plea Agreement of William C. Dredge
October 6, 1981

As part of the plea agreement between the United States of America and William C. Dredge, William C. Dredge has agreed to cooperate with the Government as follows:

1. To introduce an undercover agent of the FBI to William C. Borders, Esquire, in an investigation of Borders, United States District Judge Alcee Hastings, Thomas and Frank Romano, and associated persons, and to disclose to Special Agent William J. Murphy any additional information which Dredge becomes privy to or learns of regarding this investigation. The government will not impose any additional obligation of cooperation on Mr. Dredge; however, if Borders requests Mr. Dredge to take additional steps to facilitate the investigation, Mr. Dredge agrees to provide reasonable additional cooperation.

the hearing that resulted in his dismissal. In the absence of such an allegation, even assuming plaintiff could substantiate his averment of NYSED cooperation in the development and institution of the degree programs, he has failed to allege State involvement in the only events that could form the basis upon which this Court could grant relief, that is, the dismissal of plaintiff without due process. *See Board of Regents v. Roth*, 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972).

Even a liberal reading of the complaint would not permit the Court to infer a charge that NYSED somehow insinuated itself into the particular campus issue of the charges against plaintiff and influenced or coerced LIU to dismiss him. *See Granoff v. Massari*, 502 F.2d 338, 339 (2d Cir. 1974). Nor can it be said that the complaint avers that NYSED in any way put its weight on the side of the" complainant of procedure or placed its "imprimatur" on plaintiff's dismissal.[4] *Jacobellis v. Metropolitan Edison Co.*, *supra*, 416 F.2d at 207, 90 S.Ct. at 686-87. *Cf. Grimes v. Wagner College*, 439 F.2d 1339 (2d Cir. 1971).

Plaintiff's claim that his conduct was not violative of the degree programs approved by NYSED more than two years prior to the disciplinary proceedings, rather than interfering with the quality of State action, is properly viewed as a possible defense to the charges of unprofessional conduct that were brought against him. It is apparent from the complaint and his motion papers that the involvement of LIU with NYSED that plaintiff would have this Court review relates not to the disciplinary proceedings or the substance of the charges brought against him as they may relate to the degree programs he anchored. These matters, however, are an issue of academic and professional standards that this Court considers itself peculiarly unadapted to resolve.[5]

4. Indeed, although the complaint repeatedly alludes to "grievances" brought to bear upon defendants by the same students whose names and complaints superintendent of C.W. Post,

Accordingly, since it appears beyond doubt that plaintiff can prove no set of facts in support of his claims that would entitle him to relief under either the Fourteenth Amendment or 42 U.S.C. § 1983, *Conley v. Gibson*, *supra*, the complaint is dismissed for failure to state a claim. Rule 12(b)(6), F.R.Civ.P.

SO ORDERED.

William A. BORDERS, Jr., Plaintiff,

v.

Ronald REAGAN, President, United States of America, Alexander Haig, Government of the District of Columbia, District of Columbia Judicial Nomination Commission and Philip A. Lacovara, Defendants.

Civ. A. No. 81-1312.

United States District Court, District of Columbia.

July 7, 1981.

Member of District of Columbia Judicial Nomination Commission who had been appointed by previous President, brought suit seeking permanent injunction and declaratory judgment to prevent his removal by the President. The District Court, John Garrett Penn, J., held that: (1) District of Columbia Self-Government and Governmental Reorganization Act did not grant President power to remove member of District of Columbia Judicial Nomination Commission prior to expiration of Commissioner's term, and (2) purported removal of plaintiff was invalid in view of constitutional considerations.

Order accordingly.

There is no allegation whatsoever that any official or agent of the State was involved in any way in these alleged calls for an inquiry.

1. District of Columbia ⇐7

District of Columbia Self-Government and Governmental Reorganization Act did not grant President power to remove previous President's appointed member of District of Columbia Judicial Nomination Commission prior to expiration of Commissioner's term. D.C.Code 1977 Supp., Tit. 11 App. §§ 434, 434(a), (b)(3).

2. United States ⇐35

In determining whether power of President to remove officer shall prevail over authority of Congress to condition the power or by fixing definite term and precluding removal except for cause, court should determine whether statute creating office was designed to insure those serving in that office independence from executive direction and control, and if so, the court should uphold congressional circumscription of presidential removal at will since coercive influence of that power would threaten independence. U.S.C.A.Const. Art. 2, § 2, cl. 2.

3. District of Columbia ⇐7

Purported removal by President of member of District of Columbia Judicial Nomination Commission who had been appointed by previous President pursuant to District of Columbia Self-Government and Governmental Reorganization Act prior to expiration of Commissioner's five-year term was not authorized by President's power under appointments clause and was contrary to Congress' expansive role in managing affairs in District of Columbia that Constitution specifically and expressly granted to Congress, and therefore was invalid. D.C.Code 1977 Supp., Tit. 11 App. § 434; U.S.C.A.Const. Art. 1, § 8, cl. 17; Art. 2, § 2, cl

4. District of Columbia ⇐7

Under clause of United States Constitution expressly granting to Congress exclusive legislative power over all matters whatsoever involving District of Columbia, it is a proper legislative function to establish conditions for removal of officials performing certain functions exclusively related to District of Columbia, whether to establish certain "causes" as only grounds for removal or to set fixed term and other insulating protections in order to foster independent decision making entrusted to certain commission. U.S.C.A.Const. Art. 1, § 8, cl. 17.

Dudley R. Williams, Robert L. Ball, Washington, D. C., for plaintiff.

Dennis A. Dutterer, Asst. U. S. Atty., Michael E. Rielinski, Asst. Corp. Counsel, Washington, D. C., Frederick B. Abramson, Chairperson, D. C. Judicial Nomination Commission, Washington, D. C., for defendants.

OPINION

JOHN GARRETT PENN, District Judge.

The plaintiff, William A. Borders, Jr., was appointed to the District of Columbia Judicial Nomination Commission (Commission), pursuant to Section 434 of the District of Columbia Self-Government and Governmental Reorganization Act (Act)[1], 11 D.C.Code App. § 434 (Supp. IV 1977), by President Carter in July 1980. The term of the appointment was five years or until July 1985. On May 16, 1981, President Reagan purported to appoint Philip A. Lacovara in place of plaintiff. On that same date the President advised the plaintiff by letter that he had appointed a successor to his position on the Commission and advised him that the plaintiff's "membership on that Commission is terminated as of this date". He thanked plaintiff for his "dedicated service".[2]

The plaintiff now brings this action for a permanent injunction and declaratory relief and asks, among other things, that the Court enter an injunction compelling the

1. P.L. 93-198, 87 Stat. 774.

2. Complaint A.

HOUSE MANAGERS' EXHIBIT
EXHIBIT 24
HOUSE

President and the Secretary of State[2] to withdraw the certificate purporting to appoint Mr. Lacovara to the Commission.

I

Underlying Facts

There are no factual issues in this case. The plaintiff, a well-known and respected member of the bar, a practicing attorney in the District of Columbia and the current President of the National Bar Association, a national professional organization, was duly appointed to the Commission by President Carter on July 2, 1980, for a term of five years or until July 1985, at the expiration of the term of President Ford's appointee. Mr. Borders' predecessor, Mr. Willie F. Leftwich, had been named by President Ford in 1975, and had served a full term. President Carter was defeated in his bid for reelection by President Reagan in November 1980. Although it is undisputed that Mr. Borders has given dedicated service to the Commission, President Reagan decided to replace Mr. Borders with a representative of his own choosing. Accordingly he appointed Mr. Lacovara, also a distinguished practicing attorney in the District who is well respected in the local legal community. The President makes no contention that Mr. Borders has not faithfully and ably fulfilled his Commission duties. The decision to appoint Mr. Lacovara in place of Mr. Borders results simply from the desire of the President to exercise what he feels to be his right to appoint the Commission member who represents the President.

The letter purporting to terminate Mr. Borders' position on the Commission was delivered to plaintiff on May 14, 1981, and he filed the instant action on June 8, 1981.

The Posture of This Case

At the time he filed his complaint, the plaintiff also filed a motion for a temporary restraining order and a motion for a preliminary injunction. Since it appeared that this case would require expedited treatment and consideration in view of an anticipated vacancy on the Superior Court of the District of Columbia, the Court, *sua sponte*, scheduled the case for a Status Hearing on June 10, 1981. The plaintiff advised the Court at the Status Hearing that since no Commission meetings were scheduled in the near future, he did not wish to pursue his motion for a temporary restraining order, and it was agreed by the parties that they would present arguments on the motion for preliminary injunction on June 18, 1981. The Court entered an order setting that date for the hearing and establishing a briefing schedule. *See* Order filed June 10, 1981.

The Court heard oral arguments on June 18, 1981. Just prior to the arguments, all parties agreed that the hearing on the motion should be consolidated with the trial on the merits pursuant to Fed.R.Civ.P. 65(a)(2). The motion hearing was consolidated with the trial on the merits since there were no outstanding genuine issues of material fact and the legal issues had been fully briefed by the parties, taking into consideration the expedited treatment accorded this case.

Position and Alignment of the Parties

The President, the Secretary of State, and Mr. Lacovara, sometimes hereinafter referred to as the federal defendants, argue that the removal of Mr. Borders and the appointment of Mr. Lacovara were within the power of the President and they ask that this action be dismissed.

The District of Columbia (District) was joined as a party defendant since it "grants special rights, privileges and emoluments, to the members of the Judicial Nomination Commission pursuant to P.L. 93-198 [the Act]". Compl. ¶ 7. However, the District favors the relief requested by the plaintiff and argues that the members of the Commission do not serve at the pleasure of the appointing authority and may not be removed at will. The District bases its argument on the Constitution, Article I, Section 8, Clause 17, which provides in part that Congress shall "exercise exclusive Legislation in all Cases whatsoever, over [the] District". It contends that Congress, pursuant to the authority granted by the Constitution, properly delegated certain of its powers to the local government and the Commission, pursuant to the Act and the District of Columbia Court Reform and Criminal Procedure Act of 1970 (Court Reform Act), P.L. 91-358, 84 Stat. 473, and thereby circumscribed the power of the President. The District further urges that Congress intended that the "Commission maintain an independent . . . . . free from the potential for disruption posed by serving at the will of the appointing authority". District of Columbia Response at 2-3. According to the District, the members of the Commission are not officers of the United States, see U.S.Const., art. I, § 2, cl. 2, but are merely agents of the Congress. The District interprets Section 434 of the Act as not limiting the term of the federal appointee to the Commission to five years, but rather, establishing a term of five years.[4]

The final named defendant is the Commission. The Commission in a letter dated June 17, 1981, signed by its chairperson, Frederick B. Abramson, and concurred in by five members, with one abstaining[5], takes no position at this time "with respect to the varying contentions made by the parties or the merit of the issues involved in the lawsuit". The Commission was also unanimously of the view

> that Congress, in creating the Commission, intended to institute a merit selection process for the appointment of judges to the nonfederal courts of the District of Columbia, and that, in order to carry out this function, the Commission as a whole through its individual Members should have a high degree of independence from political control.

Time Constraints

There are certain time constraints in this case which necessitate expedited consideration of the not inconsiderable issues raised herein. In an effort to render a decision at the earliest time, it is necessary for the Court to shorten its discussion of the applicable law.

The work of the Commission and the time frame in which it must be accomplished is more fully set forth in Part II, *infra*. Suffice it to say however, that once a vacancy occurs on either of the two local courts, the Superior Court or the District of Columbia Court of Appeals, the Commission "shall, within thirty days following the occurrence of such vacancy submit to the President, for possible nomination and appointment a list of three persons for every vacancy". Act, § 434(d)(1).

Recently there were four vacancies on the local courts, three in the Superior Court and one in the Court of Appeals. President Reagan, after securing the lists from the Commission in accordance with Section 434(d)(1) nominated three persons for the Superior Court and one for the Court of Appeals. The person named for the Court of Appeals, Judge James A. Belson, is presently a judge on the Superior Court and when he is appointed yet another vacancy will exist on that court thereby setting into motion the Commission's consideration of other names to submit to the President. The Court is advised that Judge Belson has been confirmed, thus the Commission will be required to submit a list of names for the upcoming vacancy on the Superior Court within slightly more than thirty days.

II

In considering whether the President has the power to remove the plaintiff prior to the expiration of his term, the Court must first address the language of Section 434 of the Act which established the Commission. If the Act grants such power then there is no need to consider the other arguments made by the parties.

The Act establishes a Commission of seven members who are appointed for staggered terms of six years, except for the

2. The Secretary of State was joined as a defendant in this action since he is charged with the responsibility of making out, recording and affixing the seal of the United States to the Commission of an Officer appointed by the President. *See* 5 U.S.C. § 2903.

4. The question of removal for disability or good cause is not before the Court.

5. For obvious reasons neither Mr. Borders nor Mr. Lacovara was consulted by the Commission.

member appointed by the President, who is appointed for five years. Act, § 434(a). No person may be appointed to the Commission unless he is a citizen of the United States, a bona fide resident of the District of Columbia, and has maintained an actual place of abode in the District for at least 90 days immediately prior to his appointment, and is not a member, officer or employee of the Legislative Branch or of an executive or military department or agency of the United States, and except for the judicial member of the Commission, is not an officer or employee of the judicial branch of the United States or the District of Columbia. Act, § 434(b)(1). These qualifications are the same as for any judicial candidate for selection to the local courts. *See* Act, § 433(b).[6] The qualifications for members of the Commission are similar to those of the Commission on Judicial Disabilities and Tenure. *See* Act, § 431.

The members of the Commission are appointed by different persons. One member is appointed by the President, two by the Board of Governors of the Unified District of Columbia Bar, two by the Mayor, one of whom shall not be a lawyer, one by the City Council, who shall not be a lawyer, and one by the Chief Judge of the United States District Court for the District of Columbia, who shall be an active or retired Federal Judge serving in the District. Act, § 434(b)(4). Except for the Federal judicial member of the Commission who serves without additional compensation, the other members receive "the daily equivalent of the rate provided by Grade 18 of the General Schedule, established under Section 5332 of title 5 of the United States Code, while actually engaged in service for the Commission". Act, § 434(b)(5).

In the event of any vacancy on either of the local courts, the Commission is required to submit to the President, three names for each vacancy for possible nomination and appointment. Any nomination made by the President is with the advice and consent of the United States Senate. If the President fails to nominate one of the persons on the list submitted by the Commission within 60 days after receiving the list, the Commission "shall nominate, and with the advice and consent of the Senate, appoint one of the persons named on the list". Act, § 434(d)(1).

With respect to the term each member of the Commission shall serve, the statute provides:

> § 434. District of Columbia Judicial Nomination Commission.
>
> (a) There is established for the District of Columbia the District of Columbia Judicial Nomination Commission (hereafter in this section referred to as the "Commission"). The Commission shall consist of seven members selected in accordance with the provisions of subsection (b). Such members shall serve for terms of six years, except that the member selected in accordance with subsection (b)(4)(A) shall serve for five years; of the members first selected in accordance with subsection (b)(4)(B), one member shall serve for three years and one member shall serve for six years; of the members first selected in accordance with subsection (b)(4)(C), one member shall serve for a term of three years and one member shall serve for five years; the member first selected in accordance with subsection (b)(4)(D) shall serve for six years; and the member first appointed in accordance with subsection (b)(4)(E) shall serve for six years. In making the respective first appointments according to subsections (b)(4)(B) and (b)(4)(C), the Mayor and the Board of Governors of the unified District of Columbia Bar shall designate, at the time of such appointments, which member shall serve for the shorter term and which member shall serve for the longer term.

Act, § 434(a).

The statute makes no provision for the removal of members of the Commission but it does provide that "[a]ny vacancy on the Commission shall be filled in the same manner in which the original appointment is made" and that "[a]ny person so appointed to fill a vacancy occurring other than upon the expiration of a prior term shall serve only for the remainder of the unexpired term of his predecessor" (emphasis the Court's). Act, § 434(b)(3).

[1] The language of the statute makes clear that Congress did not intend that a member of the Commission serve only at the pleasure of the appointing authority or that he be removable at will; rather, once an appointment is made it is anticipated that the member will serve a complete term. This is demonstrated by the plain wording of the statute in that it provides that a member "shall serve" for the term of six years, except for the member appointed by the President, who shall serve five years. The statute makes no provision for the removal of a member, but does provide for the appointment of a member when a vacancy occurs. Act, § 434(b)(3). Section 434(b)(3) contemplates that vacancies will occur only at the expiration of a term but provides that in the case of a vacancy "occurring other than upon the expiration of a prior term", the appointee shall serve only for the "remainder of the unexpired term of his predecessor". (emphasis the Court's) *Id.*

The intent that members be insulated from political considerations and political changes in order that they may exercise their decisions free from outside influences, other than may be necessary for the consideration of candidates for judicial offices, is also demonstrated by the provision for staggered terms. The fact that the terms are staggered and that each is for a set period of years, reflects the decision of Congress to maintain continuity on the Commission without abrupt changes. This, of course, is necessary taking into consideration that when a vacancy occurs the Commission is under severe time constraints to submit a list of names for the vacancy. Any interpretation of the statute that would permit the removal of a Commission member at will would obviously make it difficult for the Commission to fulfill its statutory duties.

This Court concludes then that the plain language of the Act establishes the right of any Commission member to serve out his term without fear of removal. Removal at will is not consistent with the intent of Congress.

III

From this discussion of the background of and the specific provisions contained in the statutes establishing substantial home rule and reforming judicial administration in the District of Columbia, it is clear that the statutory intent was to ensure, as far as possible, the independence of the District's judicial personnel Commissions. To further the overriding concern of freeing judicial personnel decisions for the local courts from political pressures and considerations, be it from local or federal sources, the Act endeavored to ensure that judicial selection, retention and disqualification would be decided solely on the basis of merit. To that end, the Act established the complicated device of two parallel Commissions, one on Nominations and the other on Tenure and Disqualifications. It constituted both in the same way, as outlined in Part II, *supra*, and provided an elaborate procedure designed to safeguard the goal, shared by Congress and the President, that only merit should guide judicial personnel decisions for the local courts.

In its grant to five different collection of appointive power over the seven offices created on each Commission the Act aimed not at a scheme of permitting each of various interest groups to have its "own man" (or woman) on the Commissions, but rather reflected a realization that various institutional points of view on merit qualifications were worthy of representation. Though a local view, a federal view, a Bar view, and a judicial view were to be represented, it was merit that would be the focus for all of the "viewers," not political or philosophical conformity with the opinions of the President, the Mayor, or the other appointing authorities.

6. Prior to the Act, 11 D.C.Code App. § 433(b), there was no requirement that persons selected as judges on the local courts be bona fide residents of the District of Columbia or that they maintain an actual place of abode in the District. It was only required that such persons appointed be bona fide residents of the District or the surrounding contiguous counties in Maryland or Virginia. *See* 11 D.C.Code § 1501(b).

Moreover, the legislative history makes quite clear that the Act, far from intending the President's appointee to represent the institutional viewpoint on merit of the presidency or even the Executive Branch, intended that that person would represent the overall *federal* interest and viewpoint.

The judicial nomination procedure as encompassed in the conference report reflects both the *Federal* interest in local judicial nominees and the need for a merit selection process for these nominees.

The purpose of the new Judicial Nomination Commission is to recommend qualified persons to the President of the United States to fill vacancies on either of the District of Columbia local courts. The composition of the Commission reflects both the need for community input and representation of the *Federal* interest in the consideration of nominees for judgeships.

See 119 Cong.Rec. 42086 (1973) (emphasis supplied).

Moreover, the statute forbids the appointment of an official of *any* of the federal branches of Government (except in the case of the one member who must be a federal judge) to the Commission. *See* Act, § 434(b)(1). In particular, no member, officer or employee of any executive department or agency of the United States can be appointed. *Id.* at 434(b)(1)(C).

The provisions of the statute are entirely consistent with the intent to safeguard merit selection by insulating the Commission from political pressure.[7] The statute fixed terms longer, sometimes substantially longer, than those of the appointing officials (except, on occasion in the case of the one member who must be a federal judge, whose appointing official, the Chief Judge, may, depending on age factors, serve more than six years as Chief Judge). While the Mayor serves a four-year term, the statute provides his two appointees with six-year terms. Indeed, both of the current Mayor-appointed members were appointed by the

7. The clear intent of the acts involved in this case was to make judicial selection (and tenure and disqualification) for the local courts as independent of federal and, particularly, presidential control as possible. Indeed, the original Senate bill provided for establishment of a judicial nomination commission consisting of five members: "2 to be appointed by the Mayor from Bar Association lists, 2 non-lawyers to be appointed by the Mayor from [City] Council lists, and the Chief Judge of the District of Columbia Court of Appeals." 1973 D.C.Code Leg. & Adm.Service 945-46 (legislative history of P.L. 93-198). That Commission would prepare a list of three names, from which the Mayor would appoint one. *Id.* at 946. The House version differed in that it gave various relevant institutional interests, particularly federal ones, greater representation on the Commission. It did not diverge in contemplating any less *independence* for the members of that Commission. For example, the House amendment set longer terms, not the four years of the Senate's version, but six. It proposed the following composition of that Commission: "2 appointed by the Unified D.C. Bar, 2 appointed by the Mayor from Council lists, 1 member appointed by the Speaker of the House of Representatives and 1 member appointed by the President of the Senate, and 3 members appointed by the President . . ." *Id.* at 949. The Commission would prepare a list of three to five names, from which the *President* would appoint one, "subject to Senate approval." *Id.*

It is clear from both these versions and from the Conference substitute, enacted into law and set forth in this opinion, that the two Houses disagreed about the institutional interests to be represented on the Commission, particularly the proportion of federal to local representation, but not about the need for the commissioners, however appointed, to be free, once appointed, from political pressures, whether local or federal, whether from a legislative or an executive source. The debates in Congress also amply show the legislative intent to insulate the Commission. For example, Congressman Smith of New York stated:

> An innovation in the committee bill, which in my estimation is a great step forward, is the creation of a District of Columbia Judicial Nomination Commission. This is a variation of the Missouri plan for selecting judges and represents the growing trend in the United States toward the selection of able and qualified judges, as insulated from politics and political pressure as possible.

Committee Print: Home Rule for the District of Columbia 1973-1974, Background and Legislative History of H.R. 9056 and H.R. 9682 and Related Bills, 93rd Cong., 2d Sess., at 2172. Congressman Brockenridge of Kentucky stated:

> [T]he real point here . . . is that the law will govern and determine the quality of the bench of the District of Columbia, and not the President of the United States and not the Mayor of the District.

Id. at 2275.

current Mayor's predecessor. City Council members' terms range from two to four years, yet their appointee serves a six-year term. The Board of Governors of the Unified Bar of the District of Columbia serve only a three-year term yet, again, the Bar appointees serve for six years.

With respect to the President's appointee, the statute specifically establishes a five-year term, though the President's term is, of course, only four years. Thus, the statute, signed by the President, necessarily contemplates the "hold-over" on the Commission of the prior President's appointee into the term and possibly even throughout *the entire term of his successor*. It is clear that that result, sought by the statute, would be defeated by reading into the statute a power of presidential removal at will of his federal appointee. In sum, the Act contemplated the very situation now before this Court. As a matter of statutory construction it resolved this situation in favor of the plaintiff. It denied a power of removal at will to the appointees of Commission members. In the case of the President's appointee it made that intent particularly manifest. It chose a term for the President's appointee that necessarily plays "leapfrog" with that of the President. It forbade appointment of persons from the federal executive branch of government. And it stressed that the President's appointee was charged with representing the *federal viewpoint*, not that of the President or the Executive Branch.

Constitutional considerations

Of course, the Court's conclusion on the matter of statutory construction hardly resolves this dispute. The federal defendants have asserted a number of constitutional defenses to the plaintiff's claim. They assert that the President can remove the plaintiff at will regardless of the contrary command of the statute, and notwithstanding the former President's acquiescence in the holding over throughout almost his entire presidential term of the plaintiff's predecessor. They claim that removal at will is the President's constitutional right. That argument takes as its starting point the Appointments Clause, U.S.Const., Art. II, sec. 2, cl. 2, which reads in pertinent part:

> [The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

Their argument continues that the plaintiff is an officer of the United States. Thus, they claim, he is either one of those high officers "whose appointments are not herein otherwise provided for," and who must be nominated by the President and approved by the Senate, or one of those "inferior officers" whose appointment Congress has thought it proper to vest in the President alone. In either event, the federal defendants argue, since the power to appoint carries with it the power to remove, the President may remove at least his appointee to the Commission at will.

This argument presents obvious problems.[8] If the President's appointee to the Commission is a high officer he must be approved by the Senate. Yet, there is no requirement in the Act that the President, or for that matter the other appointing authorities, seek the advice and consent of the Senate. If Senate confirmation is necessary, it follows that no member of the Commission has been validly appointed.[9]

8. The Appointments Clause and the appointive and removal powers in the context of this case will be discussed at some length, *infra*.

9. The federal defendants hint at a position that the entire Commission system is invalid. *See* Federal Defendants' Memorandum in Opposition to Plaintiff's Motion for Preliminary Injunction at 10 n.3: "Assuming that a restriction of this sort [barring a Commission that "assist[s] in the appointment of judges"] on the President's power to appoint these judges is permissible at all . . ."

Thus, it appears that the federal defendants base their Appointments Clause argument on the plaintiff's being an "inferior officer." This argument assumes then that the members of a blue-ribbon panel charged with the use of their independent judgment in the crucial public service of selecting those candidates most fit to be the trial and appellate judges for the local courts of the Nation's capital are "inferior" officers. If one of them is an inferior officer of the United States, all of them are. Hence, under this argument, their appointment would have to be vested in either the President alone, the courts of law, or the head of a federal department. It would follow that five of the seven members of the Commission have been improperly appointed and are serving unlawfully, since neither the Mayor, the Bar, nor the City Council is president or a court of law or head of a federal department.

At the oral argument on the merits of this case, counsel for the federal defendants stated that their position is that only the President's appointee is an officer of the United States, and that none of the other Commission members is. That is based on the circular notion, for which there is some support in a number of old cases, see, e. g., *United States v. Germaine*, 99 U.S. 508, 25 L.Ed. 482 (1879), that the way to determine whether an official is an "officer of the United States" is to examine by whom he was appointed. *First*, that rule has been much criticized and is open to serious question today. *Second*, it clearly should not apply to the somewhat unusual context of this case. All seven Commission members have identical duties and offices (except that the presidential appointee has a term fixed at one year less than those of the others) created under the same statute.

The Court recognizes that one possibility is that no member is an "officer of the United States" as that term is used in the Appointments Clause, but rather that all are officers of the District of Columbia, or simply should not be deemed officers of the United States for that or some other reason.

The federal defendants appear to believe that the outcome of this case may hinge on whether members of the Commission are or are not "officers of the United States". They argue that *Buckley v. Valeo*, 424 U.S. 1, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976) (per curiam) controls this case and compels the result that members of the Commission are officers of the United States by virtue of the language in that opinion that "any appointee exercising significant authority pursuant to the laws of the United States" is such an officer. While the plaintiff's work on the Commission is "significant", he is hardly entrusted with enforcing the laws of the United States to the degree or in the sense as were the Federal Election Commissioners in *Buckley*. While they were charged with interpreting and enforcing the complex federal statutes regulating various aspects of elections, the plaintiff here is charged with the use of his best judgment in determining the merit of potential judges. Except for the fact that his position arises under federal law, which will often be the situation in cases where the question is whether a particular government official is an "officer of the United States," the faithful execution of his office and duties has no more to do with interpreting or applying the law of the United States than do the personnel decisions of a hiring co-ordinator at a law firm. Moreover, this Court concludes that *Buckley* is distinguishable from this case for a number of other reasons. For example, that case did not involve the unique home rule, federal/local problem that is presented by a case involving the District of Columbia, and that case involved the question whether all Federal Election Commissioners had been properly appointed, not whether one of them had been properly removed. "[T]he [Appointments] Clause controls the appointment of the members of a typical administrative agency even though its functions, as this Court recognized in *Humphrey's* . . . may be 'predominantly quasi-judicial and quasi-legislative' rather than executive . . . .

10. *Humphrey's Executor v. United States*, 295 U.S. 602, 55 S.Ct. 869, 79 L.Ed. 1611 (1935).

In . . . *Humphrey's* . . ., the Court was careful to note that it was dealing with an *agency intended to be independent of executive authority 'except in its selection.'* . . . *Wiener*[11] . . . did not question in any respect that members of independent agencies are not independent of the Executive *with respect to their appointments.*" *Buckley, supra* at 136, 96 S.Ct. at 690. (emphasis supplied).

More importantly, this Court's decision simply does not hinge on whether plaintiff is or is not an officer of the United States, and hence on an application of the Appointments Clause. Rather, the important constitutional principle that this case illustrates as well, and which controls the outcome of it, is that the President does not have the power to remove at will certain officers the function and duty of whose office is the exercise of independent judgment and decision-making in and for the District of Columbia.

To return to the federal defendants' argument in this context, they assert that a fixed term of office, imposed by statute, even by the same statute creating the office, never limits by itself the President's power to remove at will the occupant of that office. Only if that office can be pigeonholed as a quasi-legislative or quasi-judicial one, that is, only if it is on all fours with the factual pattern presented in the two leading cases decided by the Supreme Court, *Humphrey's Executor v. United States*, 295 U.S. 602, 55 S.Ct. 869, 79 L.Ed. 1611 (1935) and *Wiener v. United States*, 357 U.S. 349, 78 S.Ct. 1275, 2 L.Ed.2d 1377 (1958), would the federal defendants concede that there is any limitation on the President's right to remove at will a presidentially-named official.

This Court concludes that the federal defendants' constitutional argument on the President's "inherent, constitutional power" of removal takes the erroneous view of these cases in its suggestion that, basically, this Court should limit them to their facts. Consideration of these cases suggests, rather, that they establish the principle that there are some offices that by their nature and function are meant to be independent of control, direction, or interference from the President. At the same time, of course, the great bulk of nonlegislative, nonjudicial officers, by their nature and function, are meant to do the President's bidding. There can be no doubt, however, that in this unusual case of first impression, the Commission is, in terms of the nature and function of the office, of the small former group.

Demanding complete independence from Presidential direction, it is at least on a par with the Federal Trade Commission in *Humphrey's* or the War Claims Commission in *Wiener*. Indeed, the judicial commissioner may be an *a fortiori* instance of these cases, since there must not be in his case even the appearance of any direction of decision-making from the White House, and since his or her duties extend only to matters involving the District of Columbia, a jurisdiction treated differently by the *Constitution* and with respect to which *Congress* has clearly attempted to extend substantial home rule, and in particular, independence from the federal and presidential direction that had theretofore been the practice. Even though the concept of presidential oversight and direction would seem to be a necessarily included part of the concept of a "purely executive officer," this Court does not understand the federal defendants to contest the view that it would actually be improper for the President or any other Executive officer to attempt to oversee or direct any of the decisions of any member of the Commission. Rather, the federal defendants seem to freely concede that all the Commissioners, including the President's appointee, should operate entirely independent of the White House. Their brief notes prominently that "the record will not support any suggestion that the President has attempted to undermine the Commission's independence in its evaluation of particular prospective nominees." Federal Defendants' Opposition to Plaintiff's Motion for Preliminary Injunction at 10.

11. *Wiener v. United States*, 357 U.S. 349, 78 S.Ct. 1275, 2 L.Ed.2d 1377 (1958).

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The Constitution has very little to say expressly about removal from office that is relevant to this case. As one author has written, "Aside from the reference to impeachment, the Constitution is silent on the subject of removal." [13] Interestingly, though, the Constitution vests the only removal power it mentions—impeachment—in different hands than the appointment of those officials. Article III judges, for instance, appointed by joint action of the President and the Senate, can only be removed by joint action of the Senate and the House. Not only is the Constitution not explicit on most removal matters, but neither were many of the early statutes. Hence, the question arose for the courts of the proper procedures for removing officials. Fairly early, the rule emerged that "in the absence of all constitutional provision or statutory regulation it would seem to be a sound and necessary rule, to consider the power of removal as incident to the power of appointment." *In re Hennen*, 38 U.S. (13 Pet.) 230, 259, 10 L.Ed. 138 (1839) (permitting a district court judge to remove a district court clerk he had appointed). Then, in *Parsons v. United States*, 167 U.S. 324, 17 S.Ct. 880, 42 L.Ed. 185 (1897), the Court ruled that it was proper for the President to discharge a U.S. Attorney he had appointed with the advice and consent of the Senate. To the argument that the statute fixing the term of a U.S. Attorney at four years constituted the sort of "statutory regulation" that would alter the *rule of construction* laid down in *Hennen* for removal at will, the Court held that that particular statute had intended the fixing of the four-year term as words "of limitation and not of grant". *Id.* 167 U.S. at 338, 17 S.Ct. at 883. In other words, the Court concluded that Congress' intent in fixing the term was not to keep U.S. Attorneys independent from direction by the President but apparently to keep them from becoming too independent. It is clear how different the intent of the statute in question in this case is from the statute in *Parsons*. As stated more fully in Part II, *supra*, the intent of this statute was to ensure *complete independence* of Commission members from any presidential direction so that the members could be single-minded in their pursuit and evaluation of merit.

Then in *Reagan v. United States*, 182 U.S. 419, 21 S.Ct. 842, 45 L.Ed. 1162 (1901), the Court upheld the President's dismissal of a U.S. Commissioner in the Indian Territories, because Congress had not conditioned discharge from that office on prescribed "causes." Had Congress done so, however, the Court implied in *Reagan* and other cases decided between *Parsons* and *Myers v. United States*, 272 U.S. 52, 47 S.Ct. 21, 71 L.Ed. 160 (1926), the President would have to abide by those restrictions on removal even for those who would later be termed "purely executive" officers. Indeed, in *Shurtleff v. United States*, 189 U.S. 311, 23 S.Ct. 666, 47 L.Ed. 828 (1903), the Court, while making clear that its holding was a very limited one that it was proper for the President to remove an appraiser of merchandise for reasons other than those stated in the statute involved in that case, stated in dictum that by using "very clear and explicit language," Congress could limit the President's power to remove even "purely executive" officers like the plaintiff appraiser there.

It was into this background that the lengthy, expansive, dictum-filled opinion in *Myers v. United States*, *supra*, fell. Justices Holmes, Brandeis, and McReynolds [14] dissented strenuously. Justice Brandeis in dissent took sharp issue with the spirit of *Myers* of vesting the removal power exclusively in the President. In his view not only was there a lack of historical, prece-

13. Burkoff, *Appointment and Removal under the Federal Constitution: The Impact of Buckley v. Valeo*, 22 Wayne L.Rev. 1333, 1379 (1976).

14. In his comments from the bench after the announcement of the majority opinion, dissenter Justice McReynolds termed the majority decision "revolutionary." Burkoff, *supra*, at 1404.

dential, and analogical [15] support for a presidential right of removal illimitable by conditions set by Congress, but there was nothing in the doctrine of the separation of powers that "mak[s] each branch completely autonomous. [Rather, that doctrine] left each, in some measure, dependent upon the others, as it left to each power to exercise, in some respects, functions in their nature executive, legislative and judicial." *Myers*, *supra*, 272 U.S. at 291, 47 S.Ct. at 94 (Brandeis, J., dissenting).

The federal defendants would like this Court to read the *Myers* decision broadly. Yet it is quite clear from an analysis of the fairly narrow limits of the actual dispute in *Myers*, and from the subsequent Supreme Court cases of *Humphrey's* and *Wiener* rejecting the bulk of *Myers* as dictum and elaborating a functional approach hinging on the legitimate need for independence from executive control in the nature of certain offices, that indeed *Myers* should be read narrowly. As noted above, *Myers* was a 5-3 decision of a sharply divided Court. *Humphrey's* and *Wiener*, on the other hand, were subsequent unanimous decisions. In retrospect, it is clear that the issue in *Myers* was quite limited. An inferior officer, a postmaster, who was indisputably "purely executive" in the sense that his charge was not to be independent of the President or of Executive direction in any way, but rather was clearly meant to be the "eyes and arms of the President", *Humphrey's*, *supra*, 295 U.S. at 625, 55 S.Ct. at 874, was held to be removable at the will of the President when the President concluded that he was no longer serving well as his "eyes and arms". That was so even though a statute sought to tie the President's hands in removing subordinates. The contemporaneous argument on the real issue in *Myers*, made pithily by Justice Holmes in his separate dissent, was that if an office, as was the case with the postmastership in *Myers*, "owes its existence to Congress, and . . . may [be] abolish[ed] tomorrow [by] Congress," and if "its duration and the pay attached to it while it lasts depend on Congress alone," and if "Congress alone confers on the President the power to appoint to it and at any time may transfer the power to other hands," then "Congress has power to prescribe a term of life for it free from any interference." *Id.* 272 U.S. at 177, 47 S.Ct. at 48 (Holmes, J., dissenting). Limited by later Supreme Court decisions, *Myers* stands for only this: Even though Congress has established an office, has the power to abolish it, sets its pay and prescribes a desirable duration for it, if that federal office performs purely executive functions, that is, if it is the eyes and arms of the President, then, consistent with the doctrine of the separation of powers, the Congress may not restrict the President in removing the occupants of that office. It is worth noting that the majority opinion's dictum in *Myers* exceeded the position argued by the Solicitor General of the United States *on behalf of the President*. Interestingly, the Solicitor General in *Myers* argued for a "middle position". He urged on the Supreme Court the view that "Congress may guide and direct the discretion of the President by such statutory qualifications as are *properly inherent in the nature of an office*," but that the nature of Mr. Myers' office as a postmaster was to be merely the eyes and arms of the President and thus it followed that the President could remove Mr. Myers at will. *Myers*, *supra* 272 U.S. at 98.

In *Humphrey's*, President Roosevelt purported to dismiss Mr. Humphrey less than two years into the latter's seven-year term as a member of an independent regulatory agency, the Federal Trade Commission (FTC). The Congress had made clear in the Act establishing the FTC that the FTC was intended to be "independent of any department of the government." As the Court stated, "the language of the act, the legislative reports, and the general purposes of the legislation as reflected by the debates,

15. Justice Brandeis cautioned the statutory encumbrances or qualifications on the range of presidential removes with what he saw in *Myers* as the analogous situation of statutory encumbrances or qualifications on the range of presidential removes. *Myers*, *supra*, 272 U.S. at 294-274, 47 S.Ct. at 75-76 (Brandeis, J., dissenting).

all combine to demonstrate the congressional intent to create a body of experts who shall gain experience by length of service; a body which shall be independent of executive authority, except in its selection, and free to exercise its judgment without the leave or hindrance of any other official or any department of the government." *Humphrey's*, *supra*, 295 U.S. at 628–29, 55 S.Ct. at 873–73 (emphasis in original). As this Court noted in discussing the intent and the language of the statute in question in this case, the same is true of its language, its legislative history and its general purposes as the Court said of the FTC Act in *Humphrey's*.

It was likewise clear in *Humphrey's*, as it is undisputed in this case, that the reason for the attempt to dismiss the officeholder was not inefficiency, incompetence, corruption or other "cause".

Though called upon to decide *Humphrey's* less than a decade after *Myers*, the Supreme Court, in a unanimous decision [9] repudiated much of what had been said in *Myers* and held that the President's purported removal of Commissioner Humphrey had been unlawful. On the facts of *Humphrey's*, involving a position on an administrative agency, the Court had occasion to distinguish the quasi-legislative, quasi-judicial *and quasi-executive* FTC from the "eyes and arms of the President" postmaster in *Myers*. The reasoning of the opinion, though, was not that the relevant judicial inquiry is to determine whether an agency from which an officeholder had been removed could be pigeonholed as either an administrative agency or an executive one. Rather, as Justice Frankfurter wrote for a unanimous Court in *Wiener*, *supra* 357 U.S. at 352, 78 S.Ct. at 1277, in describing the *Humphrey's* reasoning (emphasis supplied):

> The assumption was short-lived that the *Myers* case recognized the President's inherent constitutional power to remove officials, *no matter what the relation of the executive to the discharge of their duties* and no matter what restrictions Congress may have imposed regarding the nature of their tenure.[10]

(3) Although given the facts of *Humphrey's* and *Wiener*, it was natural that some have tended to adopt the shorthand of comparing "quasi-legislative" offices with "purely executive" ones, the focus for deciding "whether the power of the President to remove an officer shall prevail over the authority of Congress to condition the power or by fixing a definite term and prescribing a removal except for cause will depend upon the character of the office . . ." *Humphrey's*, *supra*, 295 U.S. at 631, 55 S.Ct. at 875. This Court concludes that by that phrase, the Court meant that the following analysis is appropriate. First, the court should determine whether the statute creating the office was designed to ensure those serving in that office independence from executive direction and control. Once the court has determined, as it has in this case, that that was the design of Congress, and that such a design was legitimate, thereby distinguishing the situation under the Tenure in Office Acts involved in *Myers* where a Congress had arrogated the President's power to remove at will subordinates charged with doing his bidding, then the Court should uphold congressional circumscription of presidential removal at will since the "coercive influence" of that power would "threaten . . . *independence*." *Id.* 295 U.S. at 629, 55 S.Ct. at 875 (emphasis supplied). And again: "[O]ne who holds his office only during the pleasure of another cannot be depended upon to maintain an attitude of *independence* against the latter's will." *Id.* at 629, 55 S.Ct. at 874 (emphasis supplied). Significantly, the *Humphrey's* Court cited with approval dictum in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 162 & 165–66, 2 L.Ed. 60 (1803), where Chief Justice Marshall drew a distinction

> between those officers of whom it could legitimately be said that "their acts are his [the President's] acts" and where his will should therefore control, and those officers of whom that could not be said and where, in the interest of giving meaning to independence, removal could be circumscribed. Finally, it was clear in *Humphrey's*, as it later was in *Wiener*, that the President had no inherent constitutional power, flowing from either the Appointments Clause or the duty to faithfully execute the laws of the United States, to remove officials serving in offices intended to be independent . . . from Executive direction, control or influence.

Wiener presented a situation fairly akin to the one in *Humphrey's*, and produced a second unanimous holding invalidating a President's purported removal of an official meant to be independent of the Executive Branch. The case is particularly significant since it was the Court's last word on the subject of removal of officials meant to be independent, since it further repudiated any idea of reading *Myers* expansively, and since it involved a situation where, as in this case but unlike in *Humphrey's*, Congress had not specified anything *in the statute* establishing and structuring the War Claims Commission about the grounds for removal. As is the case with the statutes in question here then, the Court should not assume that Congress meant thereby to leave the matter to, or to recognize, an inherent constitutional power to remove a Commissioner at will. Rather, a unanimous Court instructed, the proper judicial response to the lack of express language in the statute, in a removal case, is to determine from the statute, the legislative history, and the general purpose of the legislation "the nature of the function that Congress vested in the . . . Commission." *Wiener*, *supra* 357 U.S. at 353, 78 S.Ct. at 1278. Hence, the Court invalidated President Eisenhower's purported dismissal of a member of the War Claims Commission who was to serve until the Commission wound up its business of "consi[ing] and adjudica[ing] according to law" claims for compensating internees, prisoners of war, and religious organizations which had suffered harm at the hands of the enemy in connection with World War II. Under the Act establishing the Commission [11] the task of distributing funds from the Treasury for that compensatory purpose was given to a Commission "established as an adjudicating body with all the paraphernalia by which legal claims are put to the test of proof, with finality of determination . . . ." *Id.* Again, as in *Humphrey's*, because of the facts of the particular case before the Court, comment has naturally revolved around a "quasi-judicial" agency. But in again dismissing *Myers* unanimously as having had its "scope" "narrowly confined" "to include only 'all purely executive officers,'" *id.* 357 U.S. at 352, 78 S.Ct. at 1277, and in again stressing *independence*, the Court made clear that the crucial consideration was that the statutory scheme had sought to ensure the *independence* of a Commission that Congress had created, and that it was legitimate for Congress to have made that office independent. As the Court put it *in* its conclusion in *Wiener*, Congress set up "a body that was [to be] 'entirely free from the control or coercive influence, direct or indirect,' [citing *Humphrey's*, *supra*, 295 U.S. at 629, 55 S.Ct. at 874] of either the Executive or the Congress."

If, as one must take for granted, the War Claims Act precluded the President from influencing the Commission in passing on a particular claim, *a fortiori* must it be inferred that Congress did not wish to

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10. Chief Justice Taft was no longer on the Court.

11. The Court noted the legislative history and made some comments about it which are interesting for this Court's situation. The Court explained that the House had originally vested that task or a part of it in a federal security administrator. *Id.* at 354, 78 S.Ct. at 1278. The Court referred to such an administrator as "undoubtedly an arm of the President," whom the President could have therefore discharged at will if the President disagreed with his performance of that task. However, the Senate rewrote the bill in the form which, in substance, passed. Because further duties, requiring independence and not being the eyes and arms of the President, had been added to the Commission's tasks, Commissioners could not be construed as will by the President.

16. One commentator wrote of the *Humphrey's* decision that the issue became completely different once the Court found a case of "officer-

have hung over the Commission the Damocles' sword of removal by the President for no reason other than that he preferred to have on that Commission men of his own choosing.

Id. 307 U.S. at 295–96, 79 S.Ct. at 1278. And again a unanimous Court left little doubt that since the concern was preservation of legitimate independence, the analytical mode should not be pigeonholing, but rather the "philosophy" of the cases and their implications. Commentators on what was to become the Supreme Court's last pronouncement on this subject, recognized the demise of technical considerations and particularly of *Myers*, and the centrality to the inquiry of whether there is a legitimate need for independence in the functioning of an agency or commission whose member(s) the President seeks to remove at will. As the *Harvard Law Review* commented in its annual summary of the Court Term: [9]

> The Government, in support of its position that the members of the War Claims Commission performed "purely executive" functions, contended that the settlement of claims against foreign nations had traditionally been an executive function, related to the power to conduct foreign affairs. The Court, however, indicated that Congress could have given the Commission's function to any branch of the Government. * * * [In sum, the statute] involved in [*Myers*] was enacted in a period of extreme antagonism between Congress and the President and seemed to be aimed only at undermining the position of the President. It seems likely that *if a congressional restriction of the President's power to discharge government officials other than high policy-making officials is designed to achieve a purpose reasonably related to the sound administration of the Government, it will be sustained.* Only in the extremely rare instance of clear congressional abuse would the constitutional limitation of the *Myers* case be applied.

Note, *The Supreme Court Term, 1957 Term*, 72 Harv.L.Rev. at 182–86 (1958) (emphasis the Court's).[10]

IV

The District of Columbia Aspect of this Case

In Part III this Court concluded that the philosophy and the implications of the *Myers-Humphrey's-Wiener* trilogy of cases support the conclusion that the paramount interest in independence that Congress legitimately mandated as the function and duty of a member of the Commission limits the President's power of removal at will of any such commissioner. That conclusion is reinforced by the circumstance that this case involves Congress' expansive role in managing affairs in the District of Columbia that the Constitution specifically and expressly grants to Congress. The Constitution, art. I, sec. 8, cl. 17 reads in pertinent part:

> The Congress shall have power . . . [t]o exercise exclusive Legislation in all Cases whatsoever, over such District . . . as may . . . become the Seat of the Government of the United States. . . .

Two arguments, both favoring the position of the plaintiff, emerge from that express grant of exclusive legislative control over all matters whatsoever involving the District. The first argument goes to appointment, the second, on which this Court relies, goes to removal, the real issue presented by this case.

With respect to the first argument, separation of powers notions are an underlying

> bility of particular agencies or individuals. *Barkdull*, *supra* at 1410.

10. A later commentator wrote:

> Where the *Myers* Court leaned over backwards to accommodate the President, the *Wiener* Court was unwilling, even in the total absence of explicit congressional expression on point, to give the President a removal power that went beyond the Court's conception of the degree of independence from the executive branch necessary to ensure the viability of particular agencies or individuals. *Barkdull*, *supra* at 1410.

10. The Court has considered *Martin v. Tobin*, 451 F.2d 1383 (5th Cir. 1971), *Lewis v. Carter*, 430 F.Supp. 980 (D.D.C.1977) and *Nader v. Bork*, 366 F.Supp. 104 (D.D.C.1972), and finds they are distinguishable.

concept of constitutional interpretation, but the main contours of the separation of powers are shaped by the express language of the Constitution. In this case, there is express language granting Congress power to exercise exclusive legislation over all matters involving the District. On the other hand, the Constitution has little to say expressly or by necessary implication about officials who are to perform functions relating entirely to the local government of the District.[11] The Constitution appears to contemplate a larger role for the Congress in managing the District than is the case with the more equal sharing the Constitution speaks of for managing federal matters and the federal government. Considering, therefore, the vesting of somewhat greater powers in the Congress for District than for federal matters by virtue of Clause 17, it may be that the Congress could set up a Commission that would actually make all personal decisions, subject to the advice and consent of the Senate, for posts in the District, though such a role for a Commission would be impermissible in making similar personnel decisions for *federal* rather than District posts.

The federal defendants counter that Clause 17 should be construed as a grant not of exclusivity to Congress rather than the Executive, but rather solely of exclusivity to Congress rather than the state legislatures of the States (Maryland and Virginia) that were to cede the territory to comprise the District. However, the cases do not support the view that the only aim of Clause 17 was to dispose of state/federal

11. *See Chadha v. INS*, 634 F.2d 408, 421, 423 (9th Cir. 1980):

> As James Madison affirmed in the beginning, the separation of powers concept is neither doctrinaire nor rigid. * * * The doctrine is at once pervasive and fluid. * * * Professor, later Justice, Frankfurter, explained this point ["the primacy of the Legislative branch in organizing the Government"].
>
> The connecting points among the three branches of the government are not automatic. They are undefined, and in the very nature of things could not have been defined, by the Constitution. To speak of lines of demarcation is to use an inapt figure. There are vast stretches of undivided territory. Certainty in the first instance Congress must mark metes and bounds.

11. Consistent of the law applied to the territories with the law applied to the District is particularly apt. *District of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 105, 73 S.Ct. 1007, 1010, 97 L.Ed. 1480 (1953) ("The analogy [between a former statutory scheme of management for the District and that for the territorial government] is an apt one"). The Court went on to note that "the power of Congress over the District and its power over the Territories are phrased in very similar language in the Constitution." *Id.* at 107–08, 73 S.Ct. at 1010.

Appendix A to this opinion addresses the inquiry of the general state practice with respect to the appointment of agency heads.

MEMORANDUM

TO FILE

DATE 4/16/81

FILE TOM ROMANO

FROM WRS -

SUBJECT

On Thursday, 4/16/81, Tom Romano called me regarding the previous telephone conversation he had had with Brother Muscatto. He told me he was able to determine that the government was not involved, and that it was merely an attempt by Muscatto to set him up to rip him off of some money. He indicated that he was satisfied that Muscatto would not make such an attempt again, and that, under all of the circumstances, he did not feel it necessary any longer to contact the government with respect to this information. I had not yet been able to reach Dichart (SP?) on this matter, so no government official had as of yet been informed; I told Romano that I would not make any further attempts to contact Diechart with regard to this matter, but would merely memo my file accordingly.

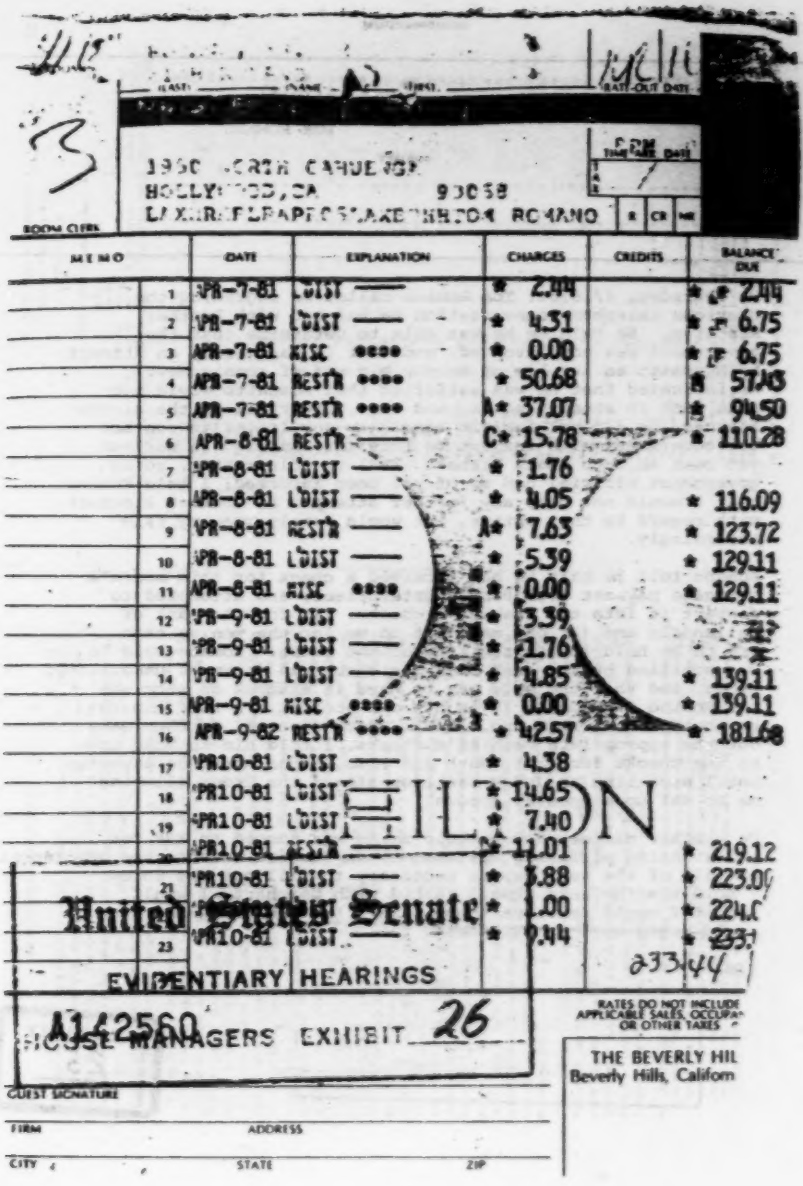
Romano told me that he had received a check for this month's mortgage payment from Pandra Enterprises, and attempted to convert it into two cashier's checks: (1) for the Bank of Hallandale and (2) one made out to me for the monies that are to be held in the registry of the court. Romano said he was notified by the bank that the check was drawn on uncollected funds, and that the only way to have it stamped as such was for Romano to deposit it in his own account. I told him to go ahead and do that and, if the check cleared, to then make out the appropriate cashier's checks. I told him to hold on to the checks for last month and this months mortgage payments until such time as Judge Hastings signed the Order allowing me to set up a special account.

On another matter, Romano told me he was forced to ask for an extension of filing his income tax returns because the government had all of the work papers necessary to fill out the forms. I told him the next time I talked with Deichart, I would see if I could retrieve those papers for him so his accountant could ~~begin work on his income tax~~.

jlm

MANAGERS' EXHIBIT 25

EXHIBIT 25 HOUSE



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LAX/RFLPAPTS/LAKE/HILTON RC/KANO

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233.44

HILTON

United States Senate

EVIDENTIARY HEARINGS

A142560 HOUSE MANAGERS EXHIBIT 26

RATES DO NOT INCLUDE APPLICABLE SALES, OCCUPA OR OTHER TAXES

THE BEVERLY HIL
Beverly Hills, Californ

GUEST SIGNATURE

FIRM ADDRESS

CITY STATE ZIP

EXHIBIT
26
HOUSE

416	ROMANO	MR. F.	NR	
ROOM	LAST (NAME)	FIRST INITIAL	RATE	DEP RATE
	WITH ROMANO			
	CITY	STATE		
ROOM CLERK			R	C R	N R

MEMO		DATE	EXPLANATION	CHARGES	CREDITS	BAL. DUE
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Rates do not include applicable Sales, Occupational, or other taxes.

I AGREE THAT MY LIABILITY FOR THIS BILL IS NOT WAIVED AND AGREE TO BE HELD PERSONALLY LIABLE IN THE EVENT THE INDICATED PERSON, COMPANY, OR ASSOCIATION FAILS TO PAY FOR ANY PART, OR THE FULL AMOUNT OF THESE CHARGES.

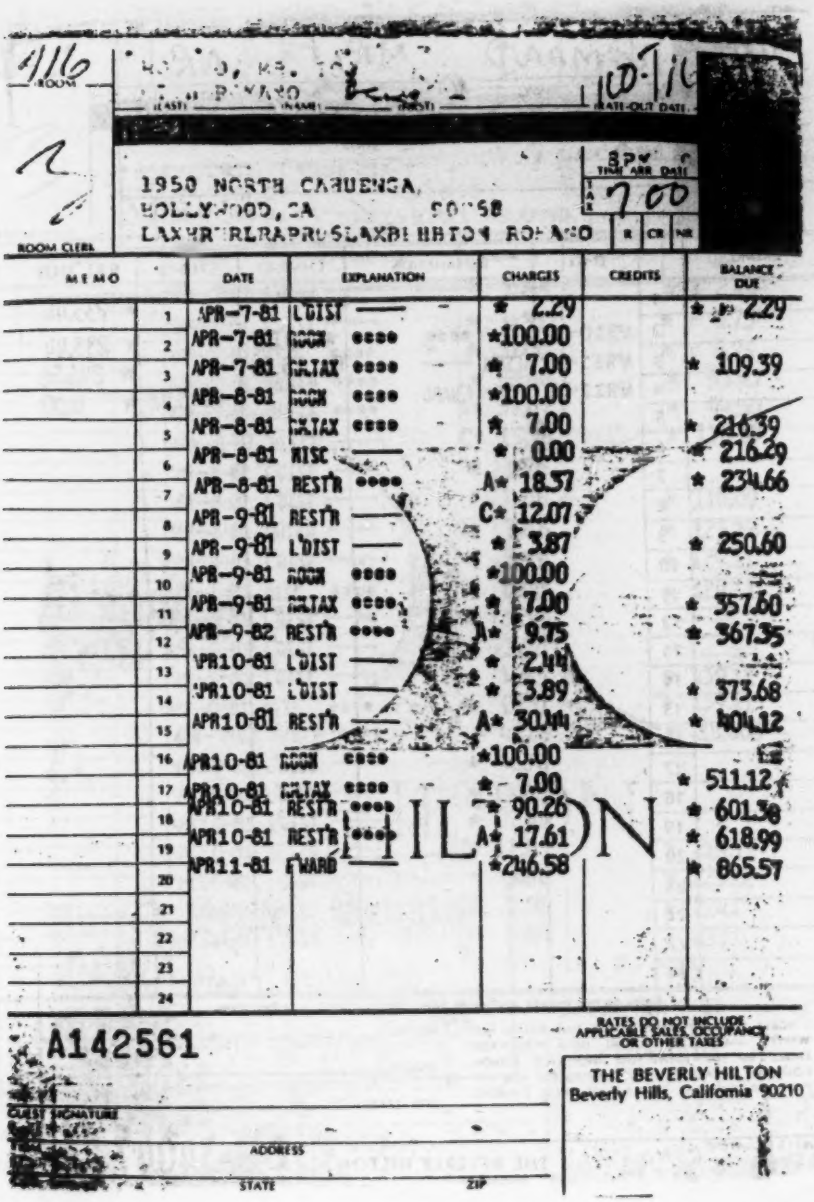
BILL TO _____ FIRM _____

STREET _____

CITY - STATE _____

GUEST'S SIGNATURE _____

THE BEVERLY HILTON Z 34067
BEVERLY HILLS



4116
ROOM

1950 NORTH CAHUENGA,
HOLLYWOOD, CA 90068
LAXHR*RLRAPRUSLAXBEHBTON RO*A*O

ROOM CLERK

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HILTON

A142561

RATES DO NOT INCLUDE APPLICABLE SALES, OCCUPANCY OR OTHER TAXES

THE BEVERLY HILTON
Beverly Hills, California 90210

GUEST SIGNATURE

ADDRESS

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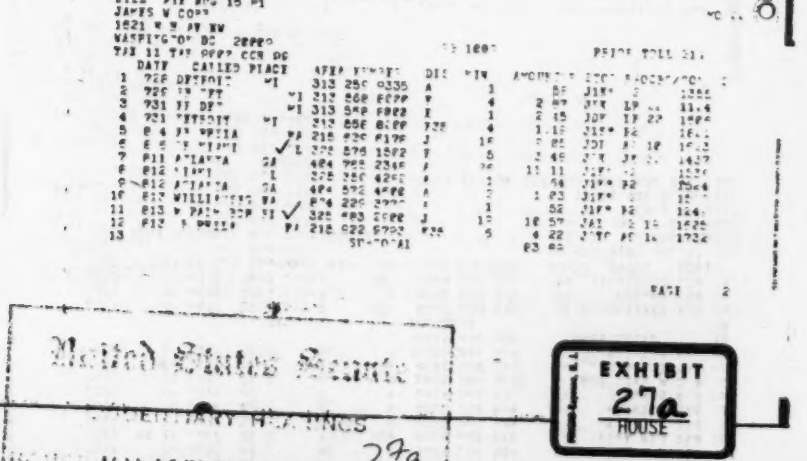

IC 63

United States Senate
SECRETARY HEARINGS
BOARD MANAGERS' EXHIBIT 27a

EXHIBIT
27a
HOUSE

DEFENDANT'S EXHIBIT 49

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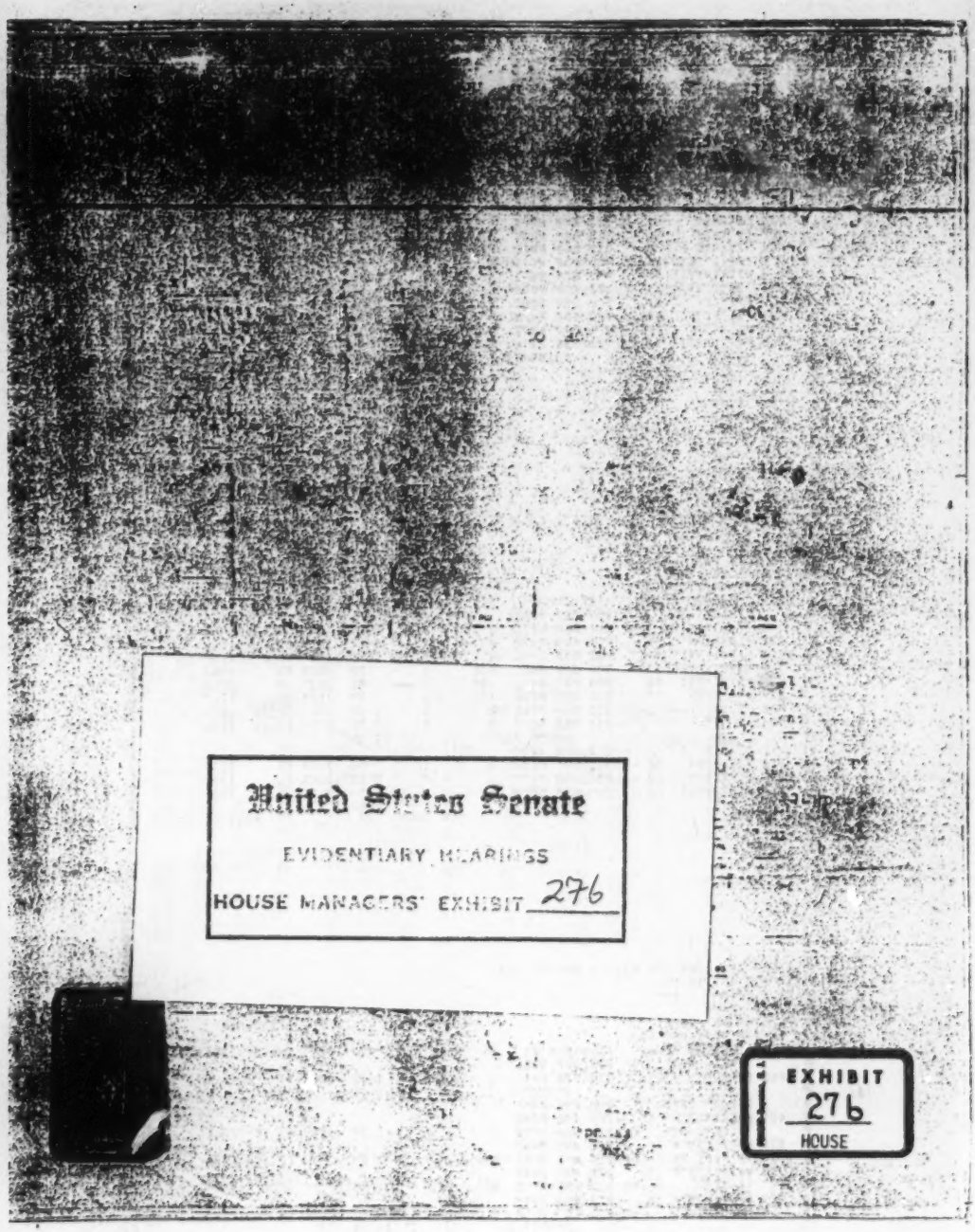
United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 276
EXHIBIT
276
HOUSE

States. Territorial cases provide ample examples of the permissibility of congressional establishment of schemes of local government which, were they adopted for the federal government or in the administration of uniform nationwide regulation, would likely have been invalidated. *See, e. g. Snow v. United States*, 85 U.S. (18 Wall.) 317, 21 L.Ed. 784 (1873). There the territorial legislature established by Congress, appointed the District Attorney of the Territory. A criminal defendant challenged his prosecution by the legislatively appointed District Attorney on separation of powers grounds. The Supreme Court held that the prosecution, and the authority and the process of selecting the District Attorney, were valid. *See also Maynard v. Hill*, 125 U.S. 190, 8 S.Ct. 723, 31 L.Ed. 654 (1888), where the Court upheld a divorce granted by the territorial legislature of Oregon, as a proper exercise of the legislative pow[er] of the Territory "extend[ing] to all rightful subjects of legislation," and not inconsistent with the Constitution and laws of the United States. *Id.* at 204, 8 S.Ct. at 726. The Court stated:

> Even though agency heads are more executive-type officials than are involved in this case, 20 States vest the appointment of one or more agency heads in a Commission or Board. Eight States vest the appointment of one or more such heads in the state legislature itself. Perhaps most significantly, no State follows the federal model of Executive (i. e. gubernatorial) nomination for all its state agency heads.

22. *Cf. Chadha, supra*, at 434 (emphasis the Court's):

> In contrast to . . . minor departures from the norm, there are departures that are axiomatically unconstitutional, departures which undermine the . . . purpose[s] of the separation of powers doctrine. Examples would be an attempt by the Executive to enact a federal criminal code without congressional approval, or an attempt by Congress to exercise the prosecutorial and adjudicative responsibilities of enforcing the criminal law. No doubt all would agree that these schemes would violate the Constitution.

23. The cases decided under Clause 17 have held that "the power of the Congress over the District of Columbia reaches . . . to 'all the powers of legislation which may be exercised by a state in dealing with its affairs.'" and have noted that "there is no reason why a state, if it so chooses, may not fashion its basic law so as to grant home rule or self-government . . ."

What were "rightful subjects of legislation" when these acts organizing the Territories were passed, is not to be settled by reference to the distinctions usually made between legislative acts and such as are judicial or administrative in their character, but by an examination of the subjects upon which legislatures had been in the practice of acting with the consent and approval of the people they represented.

Id. at 204, 8 S.Ct. at 726.

The territorial cases stand for the proposition that a scheme of government for an entity under Congress' exclusive legislative power is not unconstitutional merely because it diverges from the federal model of the separation of powers. Rather if the scheme is not out of all proportion with the federal model,[23] and if it appear to be a reasonable means of achieving a particular governmental goal, then "the legislative power" of Congress (or the territorial legislature) could extend as far as the general practice of the state legislatures.[24]

District of Columbia v. John R. Thompson Co., 346 U.S. 100, 108, 73 S.Ct. 1007, 1012, 97 L.Ed. 1480 (1953). *See also Metropolitan R. R. Co. v. District of Columbia*, 132 U.S. 1, 8, 10 S.Ct. 19, 33, 33 L.Ed. 231 (1889) (emphasis supplied) in which the Court stated:

> The form of [local District of Columbia] agencies and the mode of appointing officials to execute them are matters of legislative discretion. *Commissioners are not ordinarily appointed by the legislature or executive of a State* for the administration of municipal affairs, or some portion thereof, sometimes temporarily, sometimes permanently.
>
> For cases deferring to and upholding Congress' power to establish the judicial system of the District of Columbia as it sees fit, *see Palmore v. United States*, 411 U.S. 389, 93 S.Ct. 1670, 36 L.Ed.2d 342 (1973), and *Capital Traction Co. v. Hof*, 174 U.S. 1, 9, 19 S.Ct. 580, 582, 43 L.Ed. 873 (1899):

> I. The Congress of the United States, being empowered by the Constitution "to exercise exclusive legislation in all cases whatsoever" over the seat of the National Government, has the entire control over the District of Columbia for every purpose of government, national or local. It may exercise within the District all legislative powers that the legislature of a State may exercise within its State; and may vest and distribute the judicial authority in and among courts and magistrates, and regulate judicial proceedings before them, as it may think fit, so long as it does not contravene any provision of the Constitution of the United States.

See also 1973 *D.C.Code Leg. & Adm.Service* 561-71 (Appendix C to the legislative history of P.L. 93-198, entitled "A Statutory History of the Judicial System of the District of Columbia: 1801-1973," including, *inter alia*, a number of instances where Congress conditioned the removal of certain officers, whose duties were confined to the District of Columbia, for example:

> The act of June 7, 1870 also provided for the appointment by the Supreme Court of the District of Columbia of commoners, not exceeding twenty in number, to serve for four years subject to removal by the Court for "willful violation of law, or for misconduct, or for incompetency."

On the other hand where Congress has intended to grant the President power to remove at will a District of Columbia local official, it has shown that it knows how to express that intention:

> The act of June 7, 1870 further provided for the appointment by the President of the United States of "as many commissioners of deeds" and "notaries public" in the District of Columbia "as he may deem necessary," all of whom were to hold their offices for four year terms and be "removable by discretion" from office.

V

In the final analysis, and notwithstanding the federal defendants' characterization, removal, not appointment, is the issue here. Appointment is only before the Court in the following limited way. In its analysis the Court is called upon to determine the basic nature and function of the Commission. The Commission's primary mandate and function is to make an independent investigation and assessment of merit concerning candidates for judicial appointments in the prestigious local courts of the Nation's capital. Though these candidates come from different political parties, professional backgrounds, ideologies, and ethnic and racial groups, the Commission's call is to rise above political or philosophical considerations and any other prejudices of the moment. Commissioners are to focus single-mindedly on merit, and to send a list of these three persons deemed to possess the greatest merit along to the President. It was to ensure the independence of that investigative and decision-making process in an area that Congress deemed to have too often in the past been subjected to political pressures and other nonmerit considerations that Congress set up the Commission and sought to insulate all of its members.

[3] The real importance of the foregoing analysis of Clause 17 and a review of the territorial and District cases is not for what they imply about appointment but for what they imply about removal, the issue in this case. The point is simply: Whatever may be the law on removal at will by the President of officials of an agency or commission that Congress legitimately intends to be not the eyes and arms of the President in doing his bidding, but rather to operate insulated from any direction by him in order to engage in independent decision-making, and whatever may be the law on appointment not to federal offices but to ones in the District of Columbia, both strands meet in this case and cause the Court to conclude that the plaintiff has been removed impermissibly.

[4] Clause 17, in expressly granting to the Congress exclusive legislative power over all matters whatsoever involving the District of Columbia, suggests strongly that this congressional design to give meaning to the independent nature of certain functions exclusively related to the District of Columbia by limiting removal at will of the officials performing these functions is legitimate. It is a proper legislative function, at least where Clause 17 comes into play, to establish conditions for removal, whether to establish certain "causes" as the only grounds for removal or to set a fixed term and other insulating protections, in order to foster the independent decisionmaking entrusted to a certain commission, and Congress has done so for this office in and for the District.

It may be that courts should give effect to any statute clearly intended to limit removal at will by the President of any of-

footnote who is not, by virtue of the function and duties of his office, the eyes and arms of the President. The Court, however, believes that this case presents a narrower issue, since it involves the holder of an office with duties confined exclusively to local District of Columbia matters.

In sum, the Court must reject both of the principal lines of argument of the federal defendants. With respect to the defense that the statute does not intend to limit removal at will by the President of District of Columbia judicial commissioners, or at least the federal commissioner appointed by the President, the Court finds that the statutory intent was that *no* Commissioner should serve at the pleasure of his or her appointer. With respect to the constitutional defense, which this Court must reach, the Court concludes that the statutory limitation on removal (signed into law by the President) does not violate the doctrine of the separation of powers. It is not an inherently or necessarily executive function to remove at will Commissioners 1) whose sole function and duty is to exercise independent decision-making on merit qualifications, *and* 2) whose duties are confined exclusively to local District of Columbia matters. Where both these elements are present, statutes such as those involved in this case may constitutionally circumscribe removal at will.

As Justice Frankfurter has written: "There are vast stretches of ambiguous territory" between the powers of one branch and those of another in the constitutional design. Frankfurter & Landis, *Power of Congress over Procedure in Criminal Contempts in "Inferior" Federal Courts—A Study in Separation of Powers*, 37 Harv.L.Rev. 1010, 1014 (1924). The unanimous *Humphrey's* decision acknowledged that there "remain[ed] a field of doubt[]" between the implications of *Myers* and those of *Humphrey's*. *Humphrey's*, *supra*, 295 U.S. at 632, 55 S.Ct. at 870. *See also Swain v. David*, 148 U.S.App.D.C. 144, 148, 448 F.2d 1097, 1072 n. 11 (1971) (Supreme Court has drawn "no uncertain distinction").

This Court certainly agrees that it is hard to draw that line where Congress begins to usurp Executive functions. Wherever that line is, though, for general federal matters, this Court concludes that it is somewhat further over in a case where Congress has legislated for purely local District of Columbia matters.[34] Since Congress has not crossed that line in the circumstances of this case, the federal defendants' constitutional defense must fail. Accordingly, since the statutory intent is clear that the President cannot remove plaintiff at will, the Court concludes that the purported removal here was invalid, and that the plaintiff, since he has neither completed the statutorily-fixed term, resigned nor been removed for cause, is still a member of the District of Columbia Judicial Nomination Commission. Since he has, therefore, been a member of that Commission throughout the entire period since his appointment, the federal presidentially-appointed slot on the Commission was not vacant when President Reagan purported to name federal defendant Lenvers to it. Accordingly, that "appointment" was null and void and of no legal effect.

34. *See Mallick v. Barbour*, 427 F.Supp. 1228, 1232 (D.D.C.1977):

> Under Art. I, § 8, cl. 17, Congress has the power to legislate for the District of Columbia. That power is plenary. . . . In the exercise of that power Congress has created for the District of Columbia a local government structure, including a local court system, analogous to that of a state. * * * It is doubtful whether the doctrine of separation of powers applies with the same force to the governmental structure of the District of Columbia as it does to the federal Government.

APPENDIX A

* The positions covered are: secretary of state, attorney general, solicitor general, treasurer, controller, 4 heads of the following functions: revenue, finance administration, budget, planning, personnel, public works & buildings, school governing, public instruction, health, mental health, welfare, employment, transportation, conservation, agriculture, highways, police, public safety, civil defense, labor, insurance, banking, licensure & public utility regulation.

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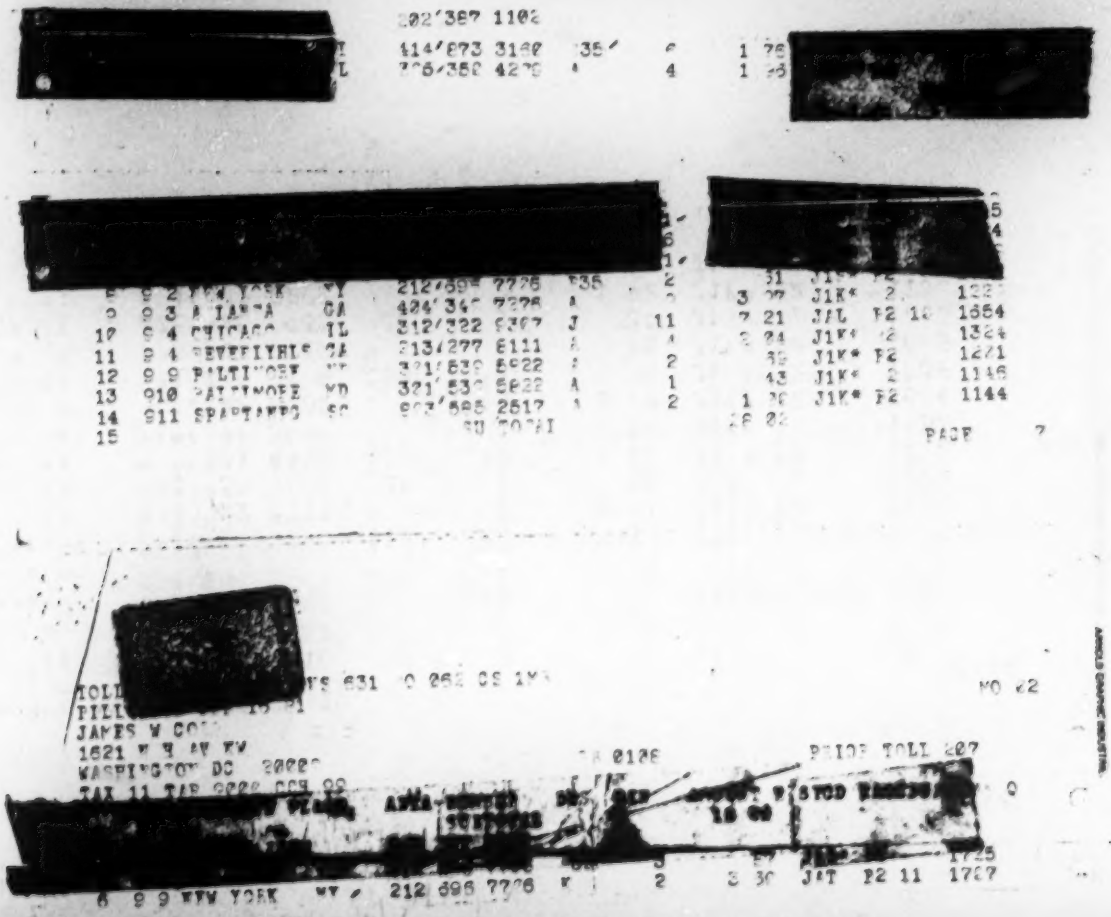

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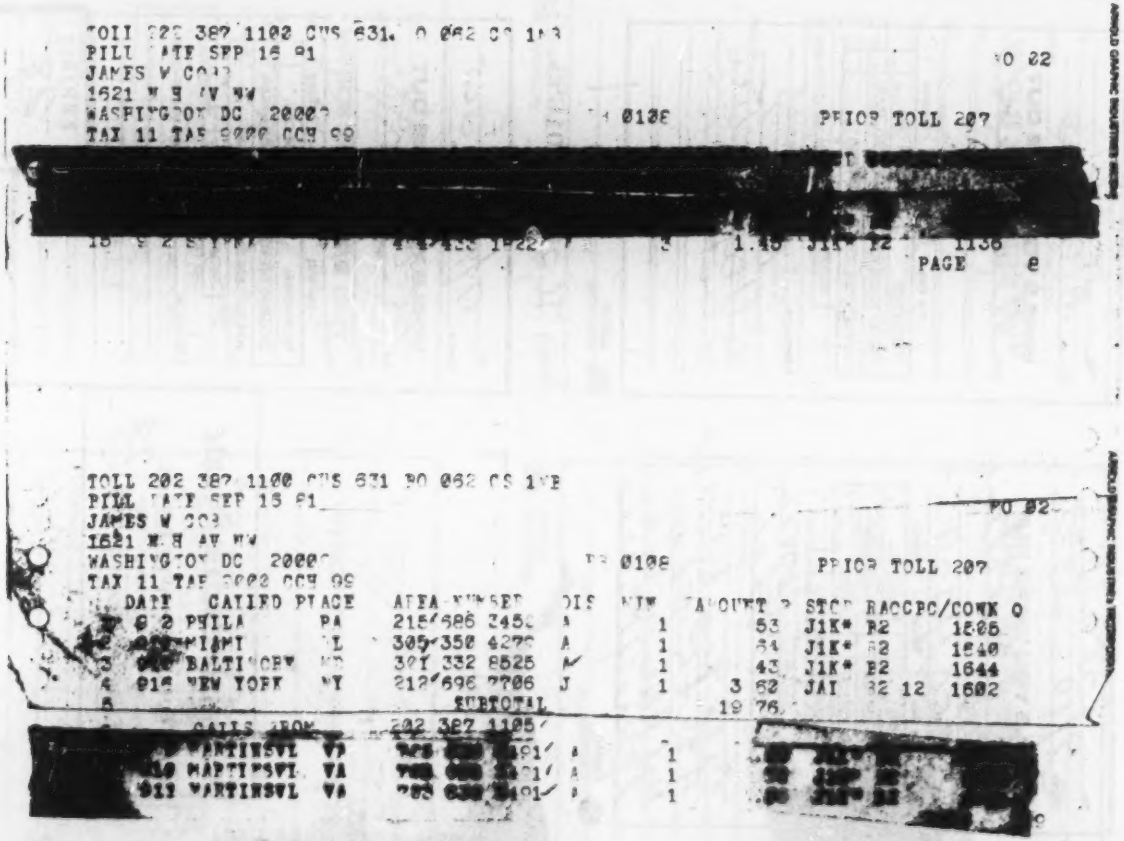

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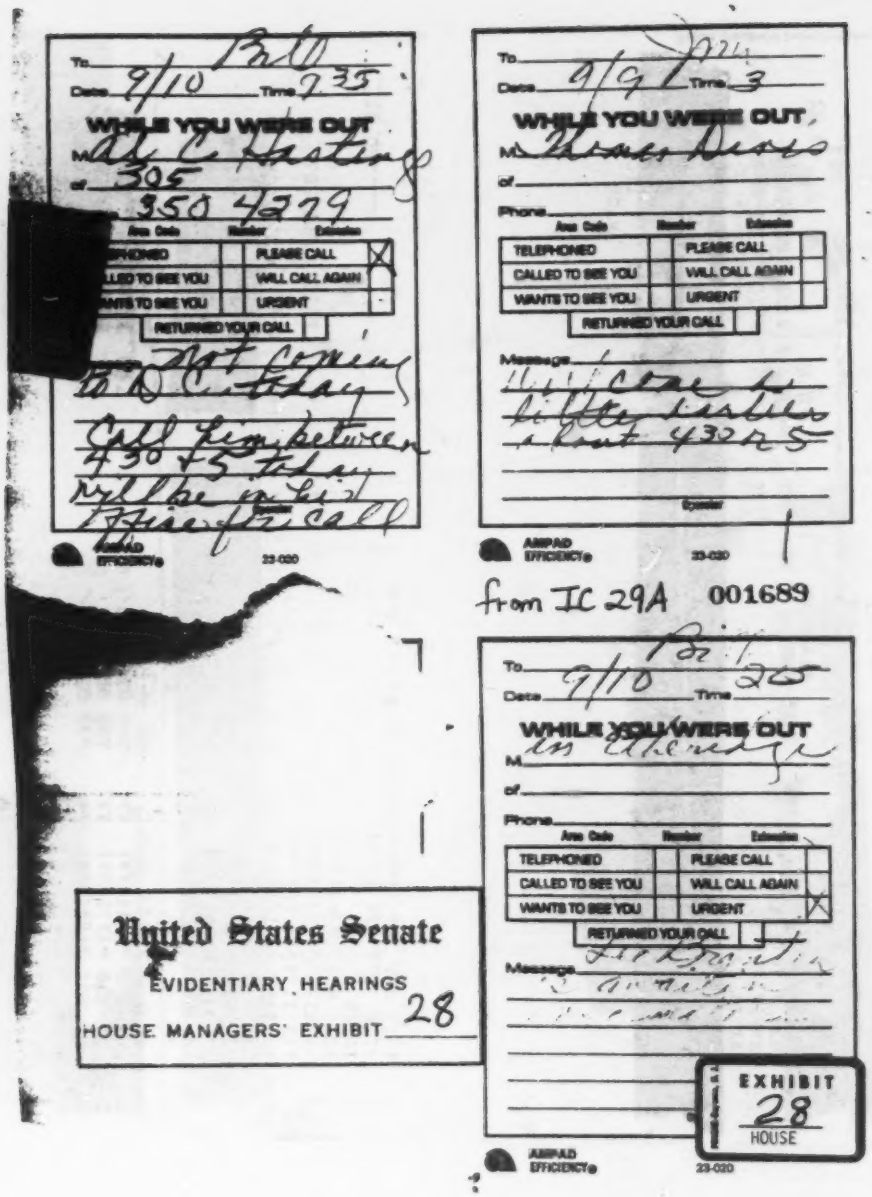

To [redacted] Date 9/10 Time 7:35

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M. Al C Hastings

of 305

Phone 350 4279

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CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message Not coming to D C today Call Tom between 4:30 & 5 today will be in last place for call

AMPAD EFFICIENCY 23-020

To [redacted] Date 9/9 Time 3

WHILE YOU WERE OUT

M. Thomas Dees

of

Phone

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message Will come to Libby Dashes about 4:30 & 5

AMPAD EFFICIENCY 23-020

from IC 29A 001689

To [redacted] Date 9/10 Time 20

WHILE YOU WERE OUT

M. Jos Etheridge

of

Phone

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	X
RETURNED YOUR CALL			

Message

AMPAD EFFICIENCY 23-020

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 28

EXHIBIT 28 HOUSE

To Bell
Date 9/10 Time 2:35

WHILE YOU WERE OUT

M. Teddy
of home
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	X
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030

To Bell
Date 9/10 Time 3

WHILE YOU WERE OUT

M. Jay Wilkerson
of
Phone 8006549178
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030

001690

To Jim
Date 9/10 Time 4

WHILE YOU WERE OUT

M. Rick Hyde
of
Phone 789 8537
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030

To B Bell
Date 9/10 Time 3:30

WHILE YOU WERE OUT

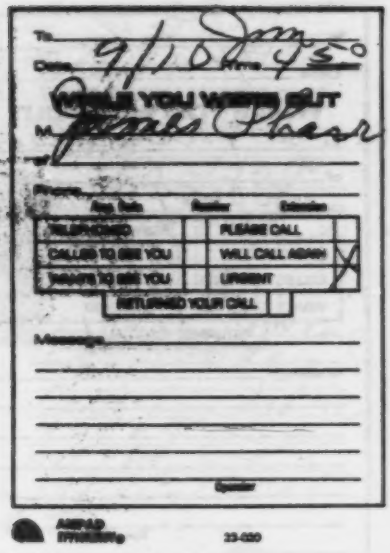
M. L. Otte
of
Phone 998 2520
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030



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M. James Pharr
of
Phone
Area Code Number Extension
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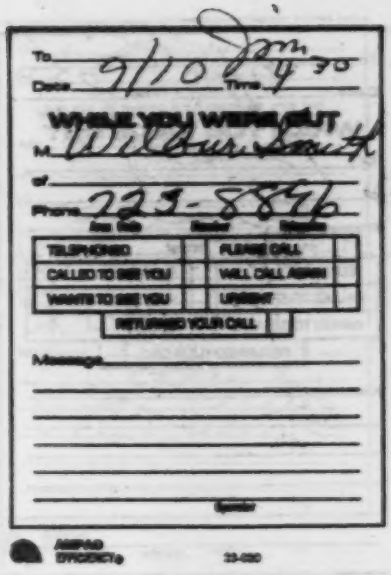
CALLED TO SEE YOU | WILL CALL AGAIN | X
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message
Operator
ABPAD 23-030



To: Jan
Date: 9/10 Time: 4:30
WHILE YOU WERE OUT
M. Wilbur Smith
of
Phone 223-8876
Area Code Number Extension
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Operator
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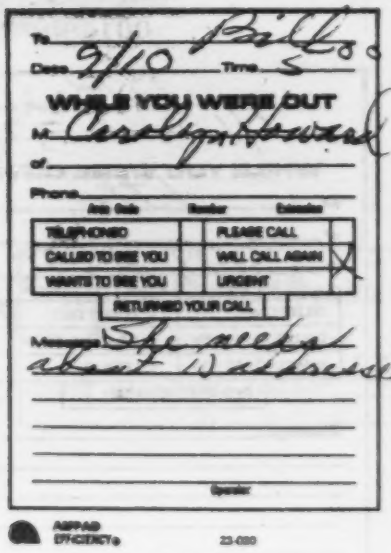
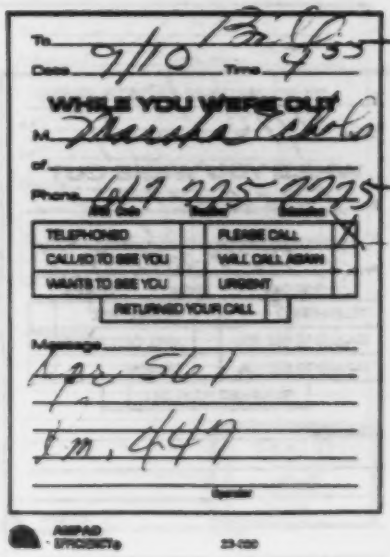


To: Bill
Date: 9/10 Time: 5
WHILE YOU WERE OUT
M. Carolyn Howard
of
Phone
Area Code Number Extension
TELEPHONED | PLEASE CALL
CALLED TO SEE YOU | WILL CALL AGAIN | X
WANTS TO SEE YOU | URGENT | X
RETURNED YOUR CALL
Message She needs
about business
Operator
ABPAD 23-030



To: Bill
Date: 9/10 Time: 4:55
WHILE YOU WERE OUT
M. Marsha Echols
of
Phone 617 225 2275
Area Code Number Extension
TELEPHONED | PLEASE CALL | X
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
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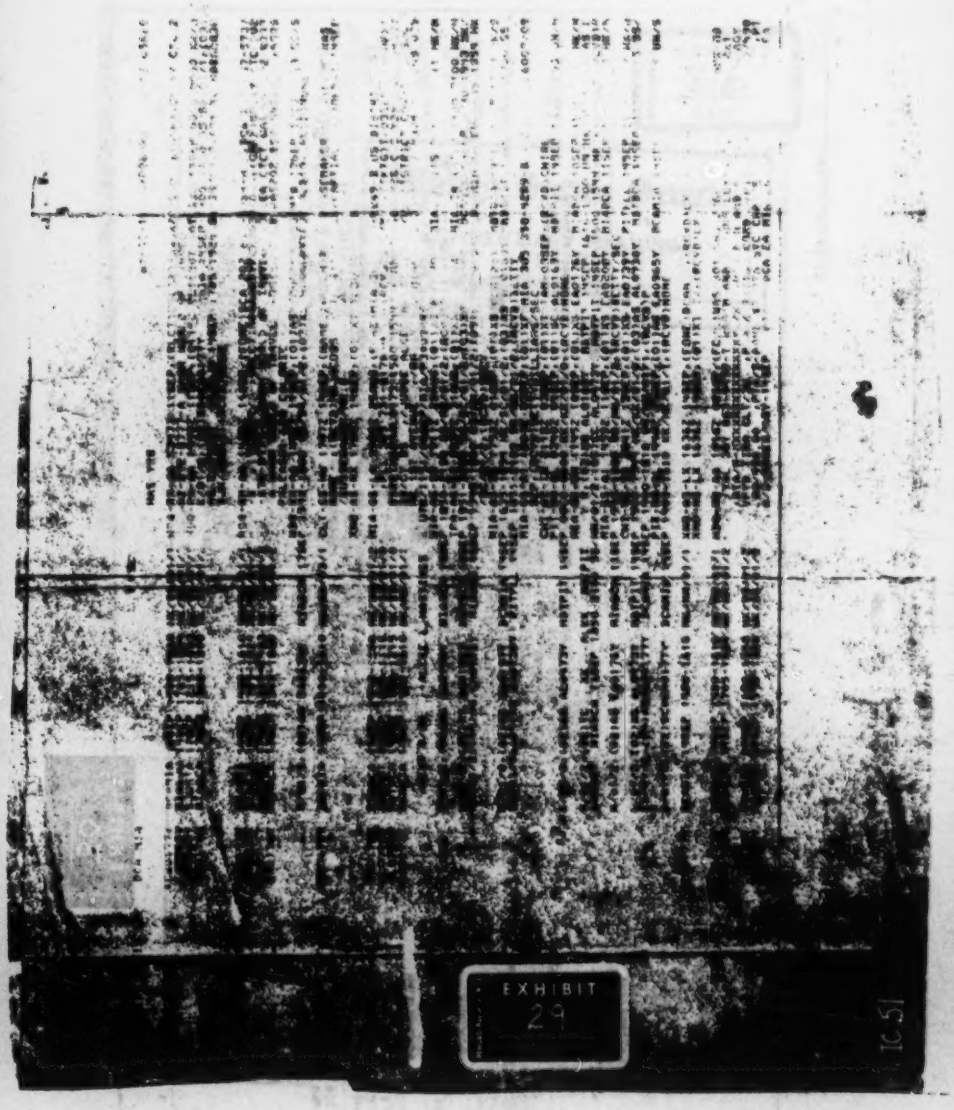
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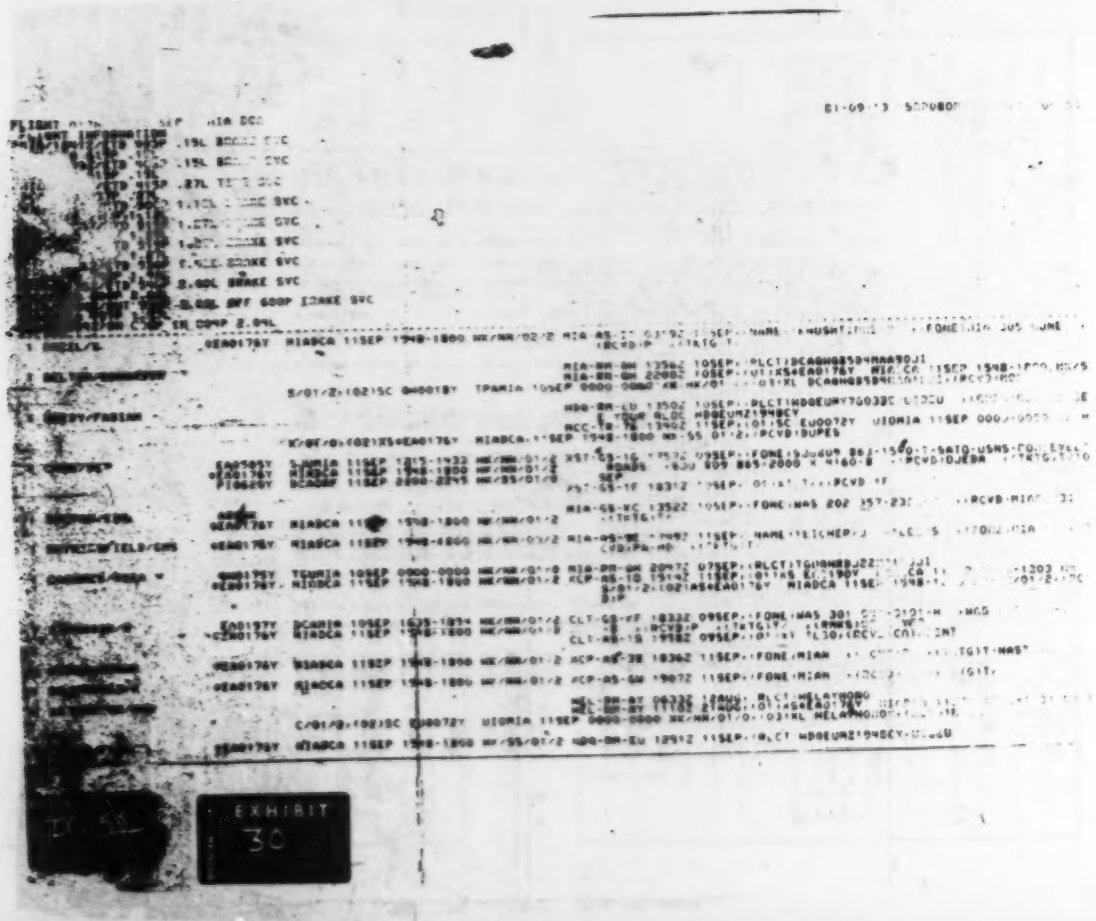
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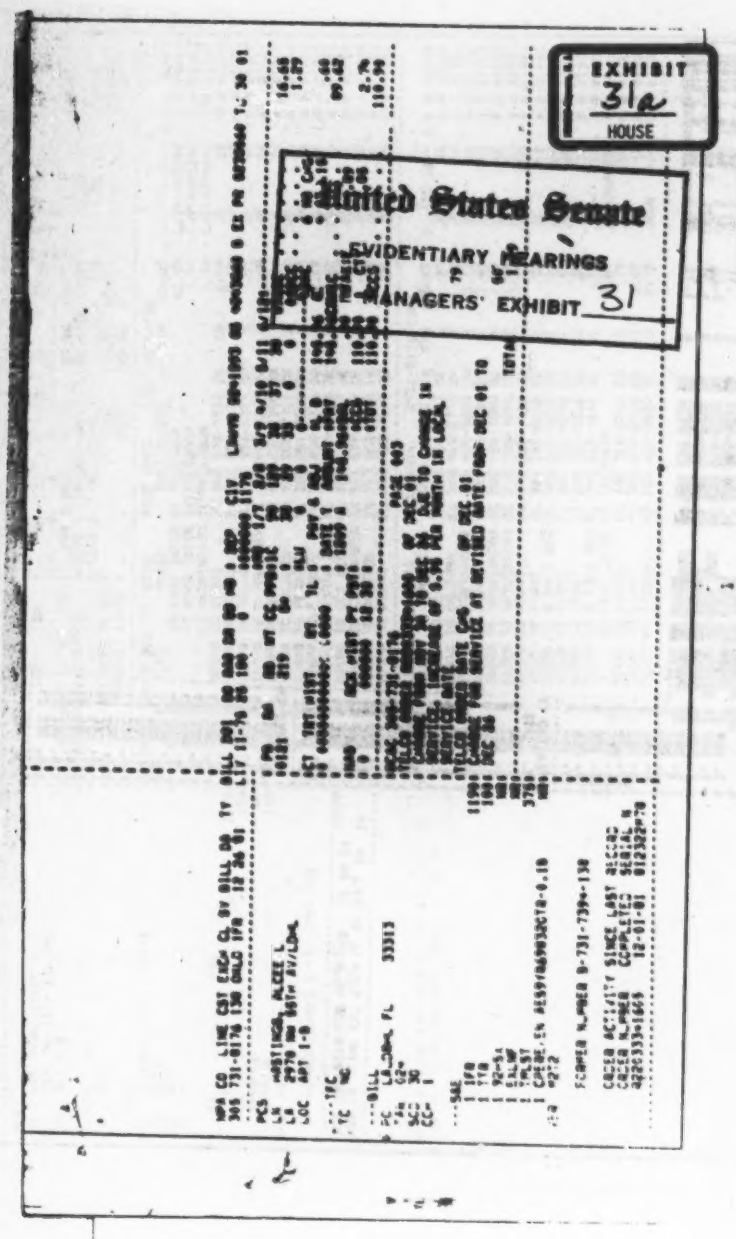
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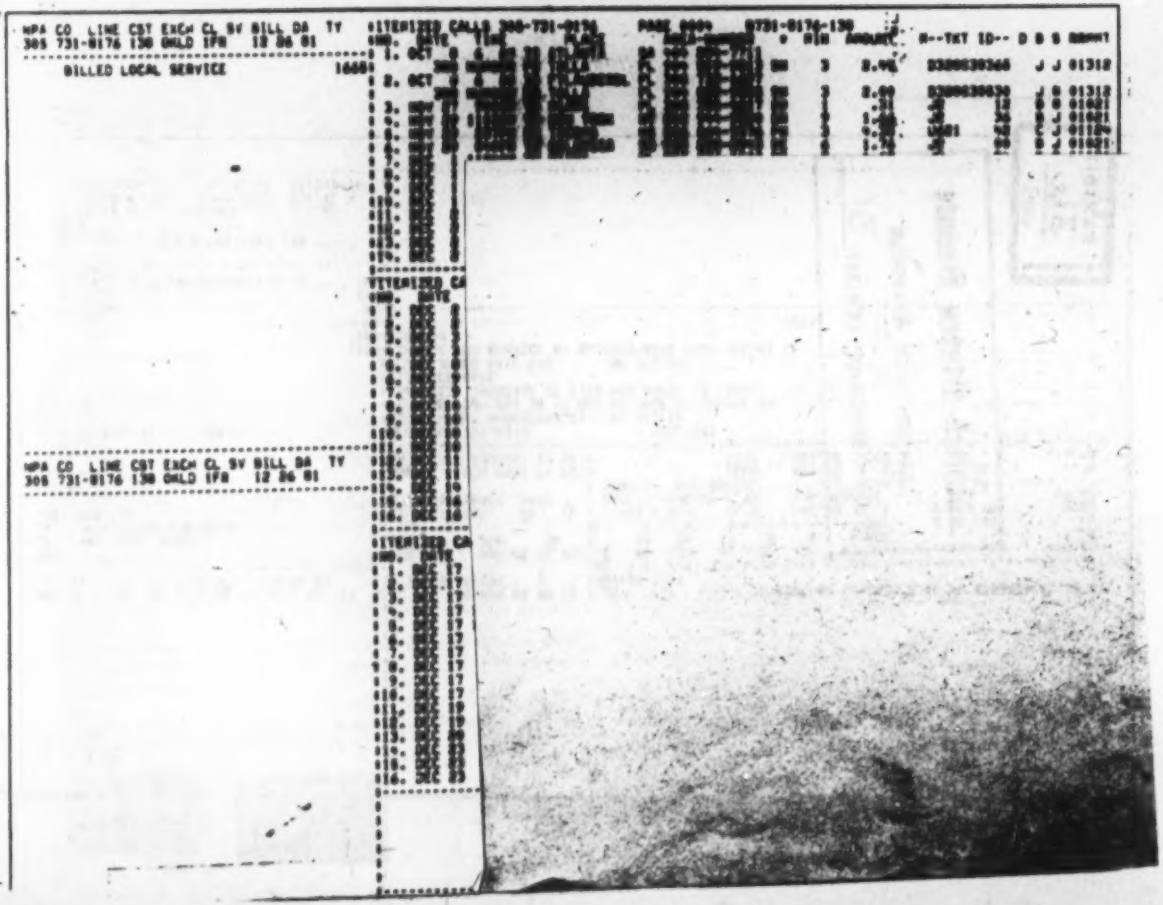
31a
HOUSE
United States Senate
EVIDENTIARY HEARINGS
MANAGERS' EXHIBIT 31



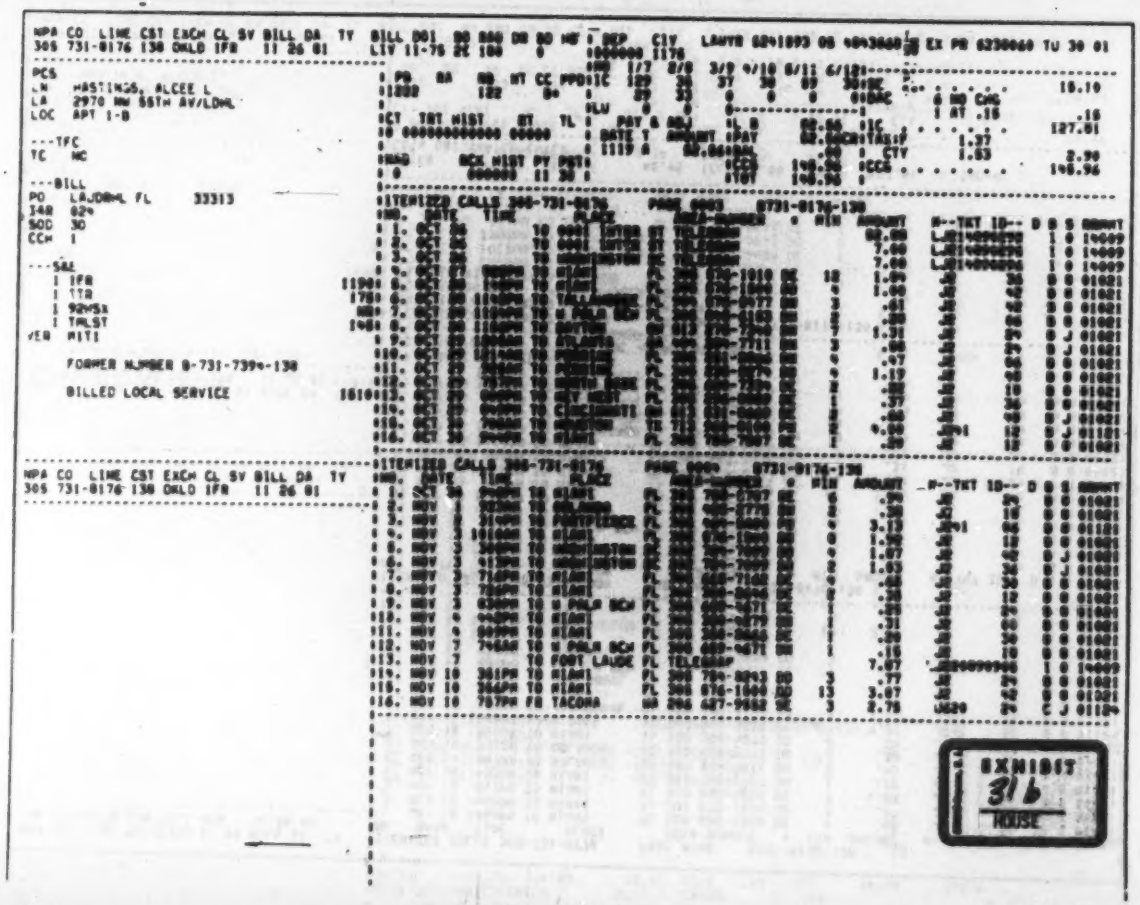
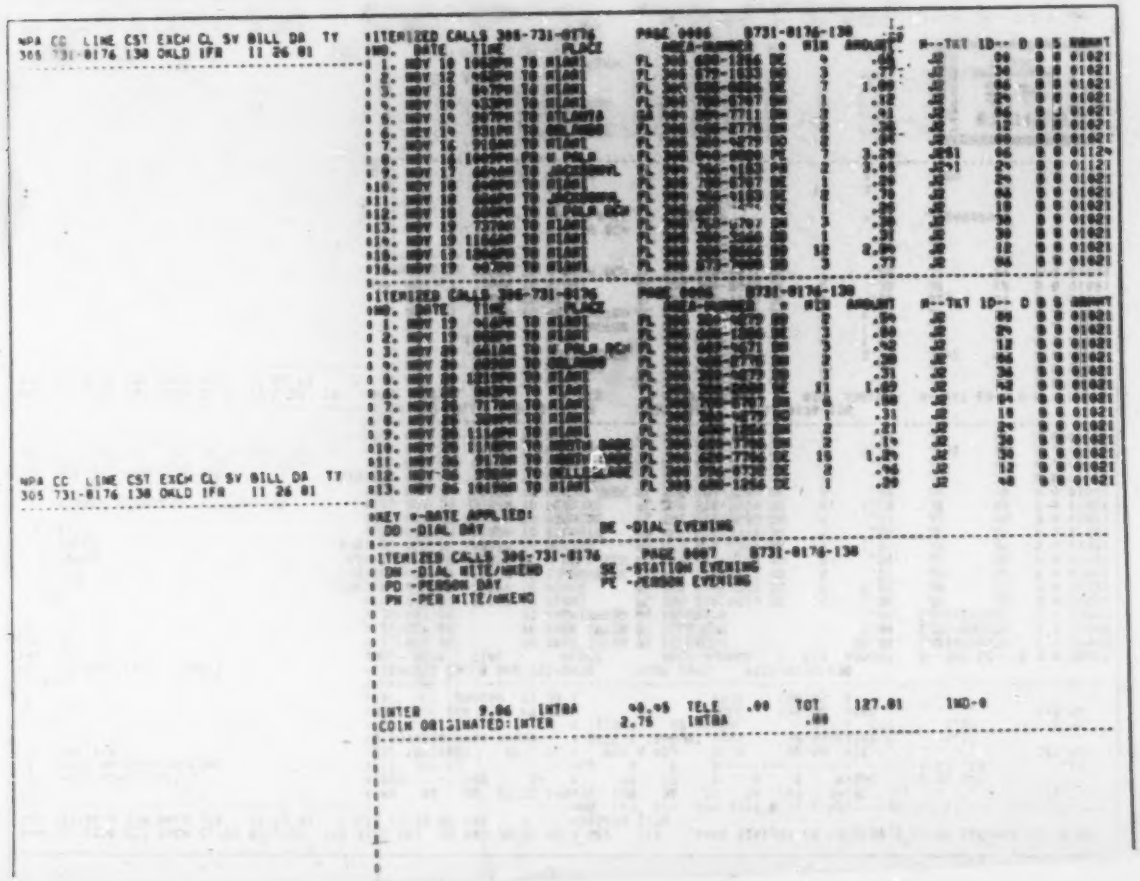


EXHIBIT 31b HOUSE



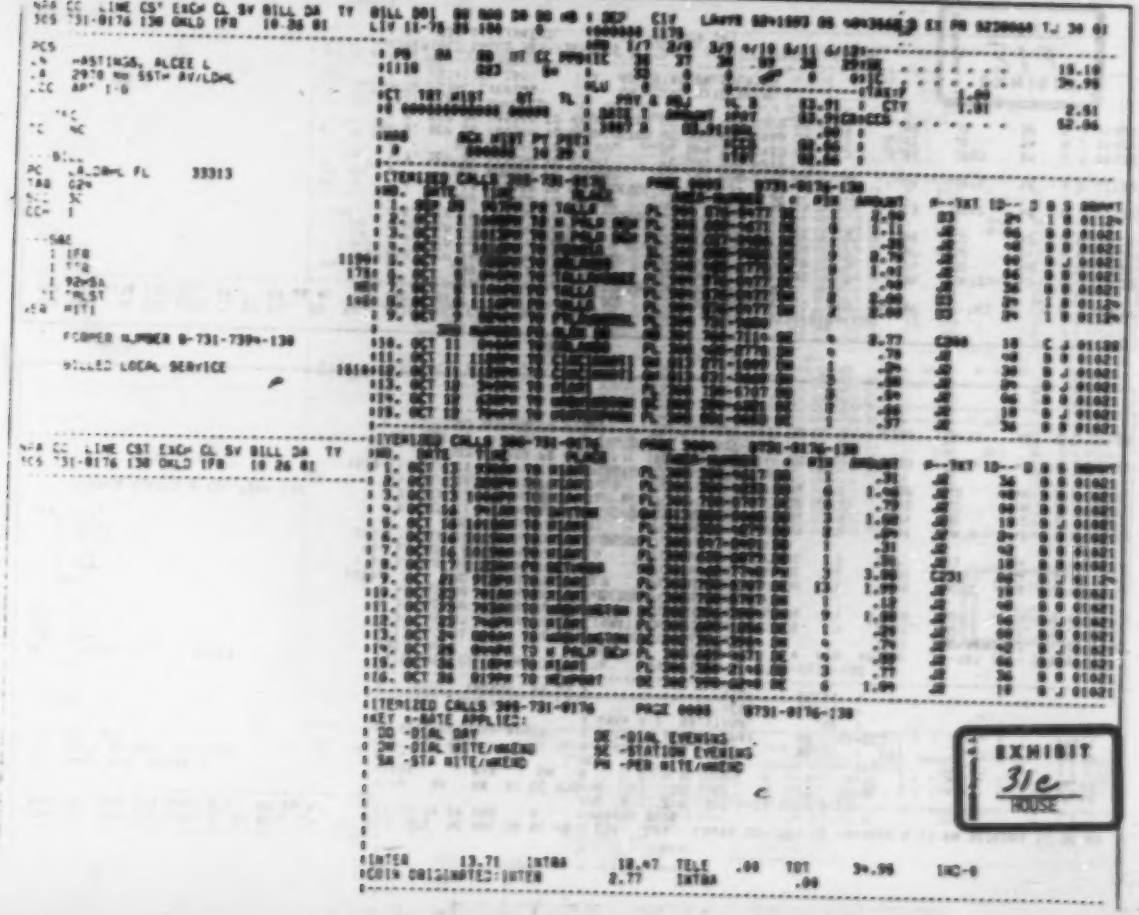


EXHIBIT
31e
HOUSE

NPA CC LINE CST EXCH CL SV BILL DA TY
305 731-0176 130 ONLC IFR 09 26 01

-CS
LN -HASTINGS, ALCEE L
LA 2970 NW 95TH AV/LDHL
LCC APT 1-5

---TPC
TC MC

---BILL
PC -LAUDHL FL 33313
TAR 02+
SCC 3C
CCP 1

---SAE
1 IFR 11900
1 ITR 1781
1 02+SA 481
6 TWLST 1461
/ER PITI

FORMER NUMBER 0-731-7394-130

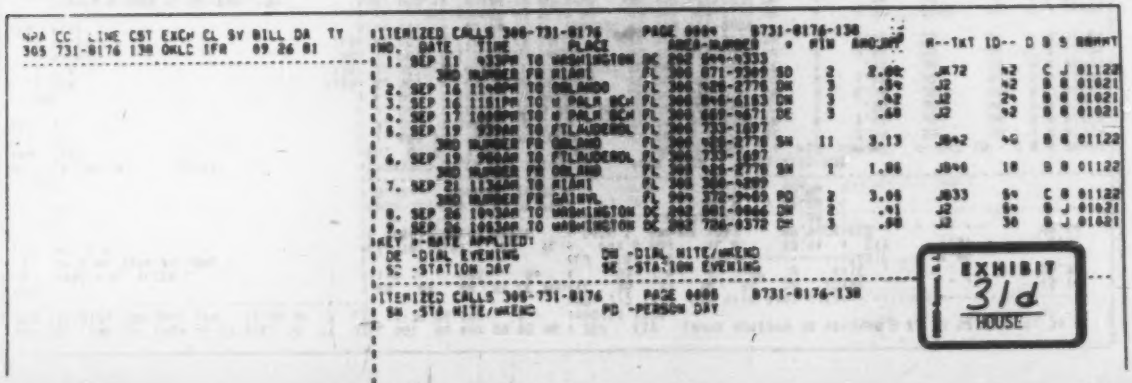
BILLED LOCAL SERVICE 1610

BILL 001 80 BAC DR BD #B 0 DEP C1/ LAWYR 52+1893 05 48+3660 0 EX PR 5230660 TJ 30 01
LIV 11-76 25 100 0 1000000 1178
1MO 1/7 2/8 3/9 4/10 5/11 6/12

PD	BA	BB	NT	CC	PPD	IC	37	38	39	30	29	33	SE		16.10
1621		HI9		0+	1	0	0	0	0	0		01	IC		36.43
					HLW		0	0	0				TAX	.07	
ACT	TRT	HIST		BT	TL	PRV & ADJ			HL 0	88.11		CTY		1.51	2.38
00	000000000000	00000				DATE T	AMOUNT	APAY		88.11	CR	CCS			53.91
						0914 A 0	88.11	BAL		.00					
NAD		NCK	HIST	PY	PBT				CCD	53.91					
1 0		000000	09	25	1				1101	53.91					

ITEMIZED CALLS 305-731-0176 PAGE 0003 0731-0176-130

NO.	DATE	TIME	PLACE	AREA-NUMBER	ST	MIN	AMOUNT	R--TXT	ID--	D	S	RRMMT
1.	AUG 01		TO FORT LAUDE	L TELEGRAM			7.07	L3M+0890883		I	0	14009
2.	AUG 27	1030PM	TO CINCINNATI	OH 513 531-0669	DK	7	2.03	JK2	84	B	J	01021
3.	AUG 30	713PM	TO MIAMI	FL 305 666-1266	DN	1	.12	JK2	84	B	B	01021
4.	AUG 30	904PM	TO FTLAUDERDA	FL 305 733-1697								
		305	NUMBER PB W PALM	FL 305		2	1.36	JK52	66	C	B	01122
5.	AUG 31	907PM	TO MIAMI	FL 305 666-9960	SN	2	.36	JK5	64	B	B	01021
6.	SEP 2	113PM	TO TALLA	FL 904 576-4707	SK	6	2.88	JK3	24	I	B	01124
7.	SEP 10	714PM	TO FTLAUDERDA	FL 305 733-1697								
		305	NUMBER PB MIAMI	FL 305		2	1.00	JK70	48	C	B	01122
8.	SEP 11	1234AM	TO WASHINGTON	DC 202 828-3100	DN	4	.76	JK2	12	B	J	01021
9.	SEP 11	712AM	TO W PALM BCH	FL 305 689-9671	DN	1	.15	JK2	18	B	B	01021
10.	SEP 11	716AM	TO ORLANDO	FL 305 425-2778	DN	2	.30	JK2	48	B	B	01021
11.	SEP 11	307PM	TO WASHINGTON	DC 202 387-1100								
		305	NUMBER PB MIAMI	FL 305		1	0.00	JK34	48	C	J	01122
12.	SEP 11	919PM	TO WASHINGTON	DC 202 387-1100								
		305	NUMBER PB MIAMI	FL 305		1	2.60	JK72	48	C	J	01122



NPA CC LINE CST EXCH CL SV BILL DA TY
305 731-0176 130 ONLC IFR 09 26 01

ITEMIZED CALLS 305-731-0176 PAGE 0004 0731-0176-130

NO.	DATE	TIME	PLACE	AREA-NUMBER	ST	MIN	AMOUNT	R--TXT	ID--	D	S	RRMMT
1.	SEP 11	933PM	TO WASHINGTON	DC 202 646-9333								
		305	NUMBER PB MIAMI	FL 305	871-2949	SD	2	2.00	JK72	42	C	J 01122
2.	SEP 16	1104PM	TO ORLANDO	FL 305	425-2778	DN	3	.54	JK2	42	B	B 01021
3.	SEP 16	1151PM	TO W PALM BCH	FL 305	848-6183	DN	3	.42	JK2	42	B	B 01021
4.	SEP 17	1008PM	TO W PALM BCH	FL 305	689-9671	DN	3	.68	JK2	42	B	B 01021
5.	SEP 19	930AM	TO FTLAUDERDA	FL 305	733-1697							
		305	NUMBER PB ORLAND	FL 305	425-2778	SN	11	3.13	JB42	46	B	B 01122
6.	SEP 19	940AM	TO FTLAUDERDA	FL 305	733-1697							
		305	NUMBER PB ORLAND	FL 305	425-2778	SN	1	1.86	JB40	18	B	B 01122
7.	SEP 21	1134AM	TO MIAMI	FL 305	358-4209							
		305	NUMBER PB GAINVL	FL 904	372-9469	PD	2	3.06	JB33	64	C	B 01122
8.	SEP 26	1043AM	TO WASHINGTON	DC 202	861-9866	DN	2	.41	JK2	66	B	J 01021
9.	SEP 26	1053AM	TO WASHINGTON	DC 202	726-8372	DN	3	.88	JK2	36	B	J 01021

KEY #--RATE APPLIED:
DE -DIAL EVENING DN -DIAL NITE/WKEND
SC -STATION DAY SE -STATION EVENING

ITEMIZED CALLS 305-731-0176 PAGE 0005 0731-0176-130
SN -STA NITE/WKEND PD -PERSON DAY

EXHIBIT 31d HOUSE

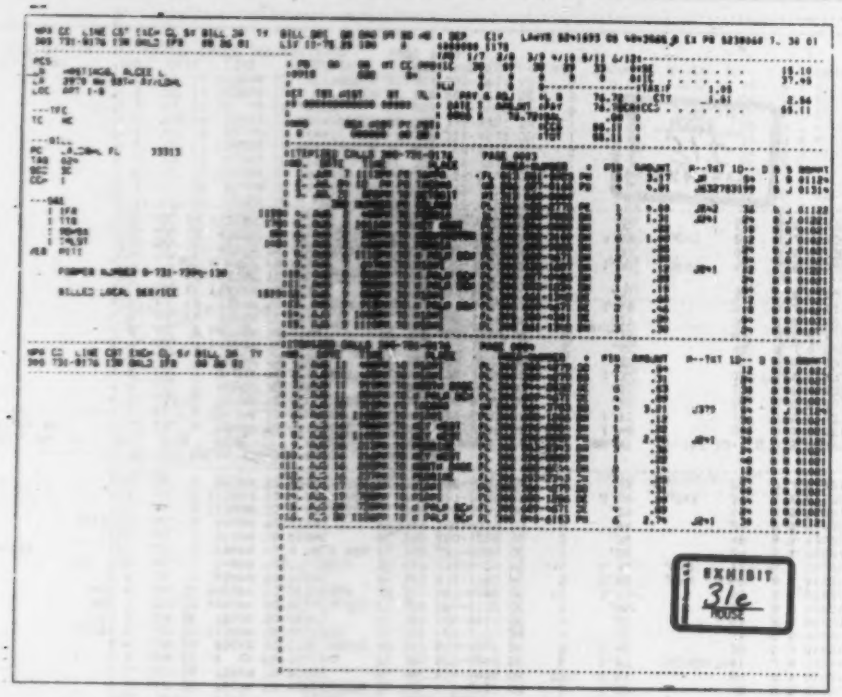
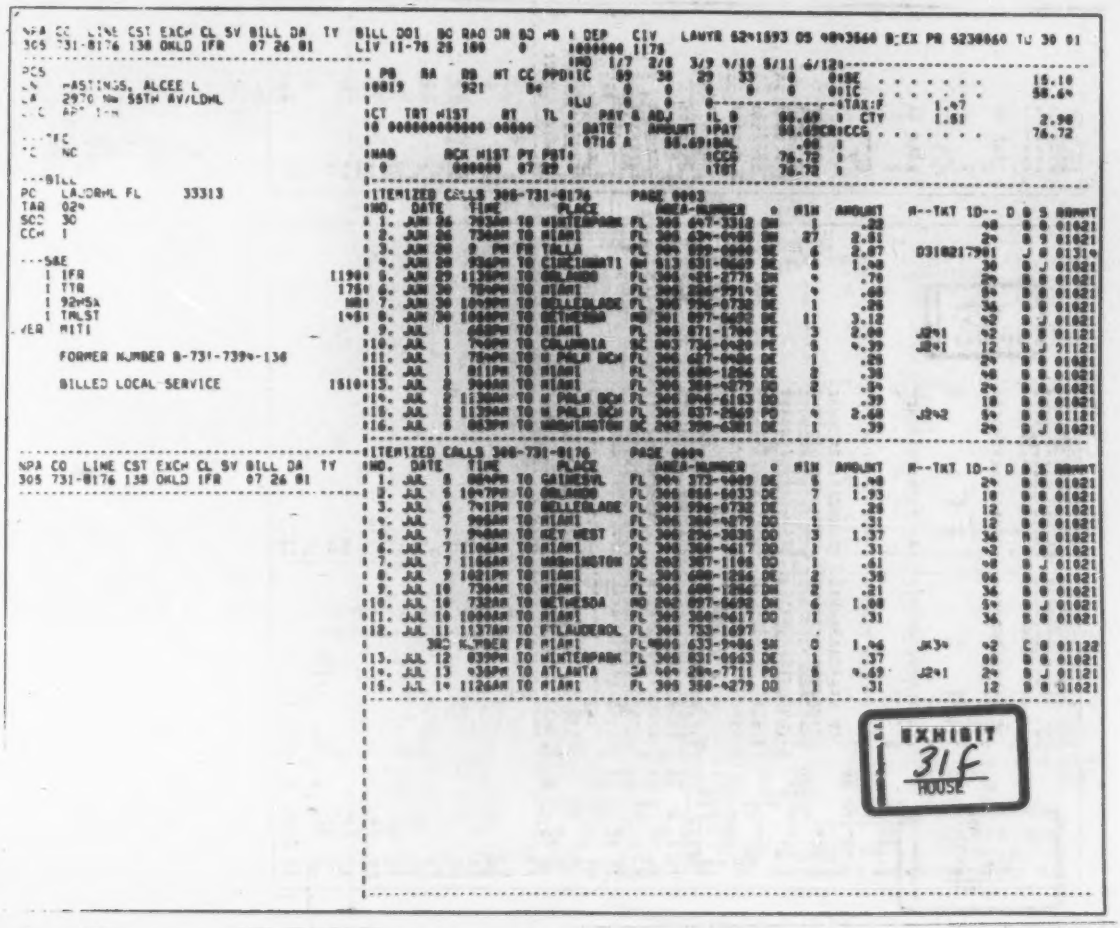


EXHIBIT
31e
HOUSE



NPA CO LINE CST EXCH CL SV BILL DA TY BILL DOI BC RAO DR BD MB | DEP CIV LAWYR 5291893 05 9893860 BIEX PR 9230860 TU 30 01
305 731-8176 138 OKLD IFR 07 26 81 LIV 11-76 25 189 0 | 8888888 1178
IND 1/7 2/8 3/9 9/10 5/11 6/12

PCS
LN HASTINGS, ALCEE L
LA 2970 NW 55TH AV/LDML
LOC APT NO

---REC
PC NC

---BILL
PC LAUDRHL FL 33313
TAR 02+
SCC 30
CCH 1

---SAE
1 IFR 11980
1 TTR 1750
1 92+SA MRS
1 TALST 1480
VER MITI

FORMER NUMBER 8-731-7394-138

BILLED LOCAL SERVICE 15100

PB BA RB MT CC PPD | IC 89 38 29 33 0 | 08E 15.10
0819 921 84 | 0 0 0 0 0 | 01C 58.64
| CLU 0 0 0 | +TAX:F 1.07
CT TRT MIST MT TL | PRV & ADJ TL D 88.69 | CTY 1.81 2.98
0 0000000000000 00000 | DATE T AMOUNT PAY 88.69CRICCG 76.72
| 0716 A 88.69|BAL .00 |
NAB BCK MIST PY PST | ICCG 76.72 |
0 0 000000 07 29 | TOT 76.72 |

ITEMIZED CALLS 305-731-8176 PAGE 0003

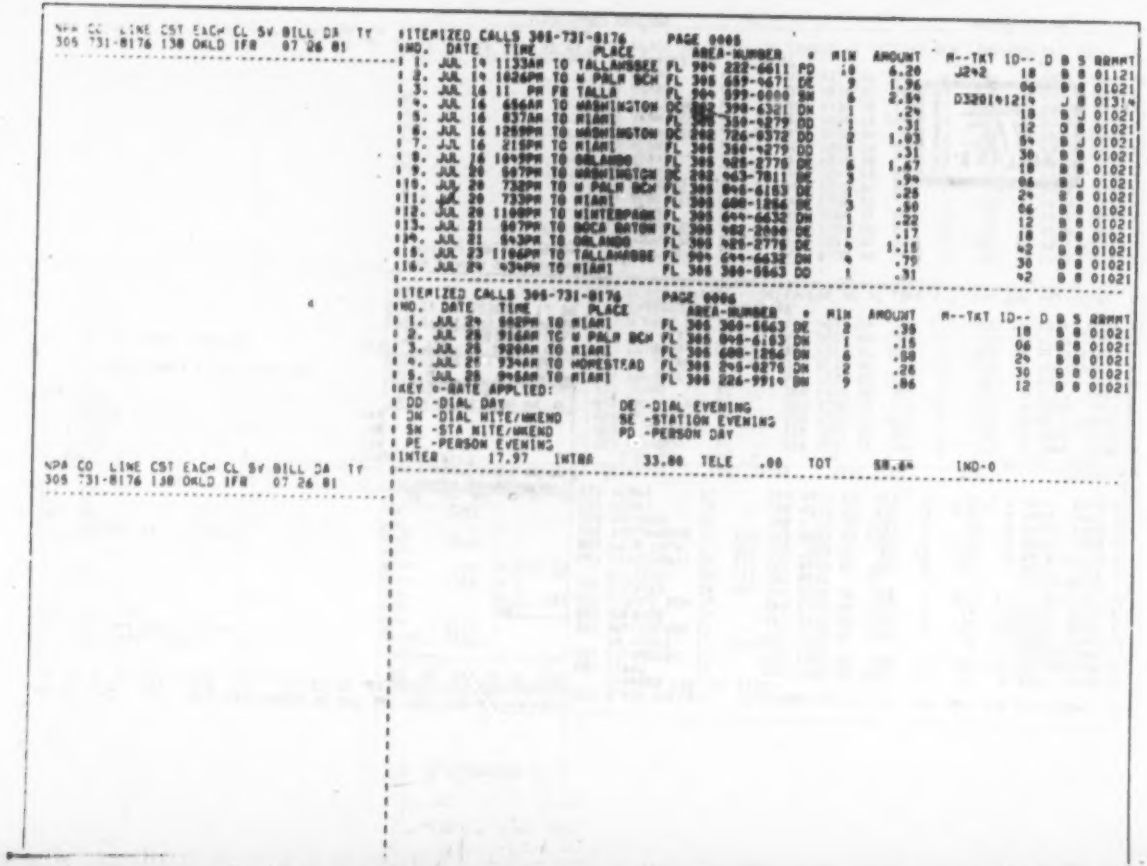
NO.	DATE	TIME	PLACE	AREA-NUMBER	O	MIN	AMOUNT	R--TXT ID--	D	B	S	RRMT
1.	JUN 26	7:53AM	TO WINTERPARK	FL 305 647-3312	DE	1	.22			48	B	B 01021
2.	JUN 26	7:56AM	TO MIAMI	FL 305 634-0488	DN	27	2.51			24	B	B 01021
3.	JUN 26	9 PM	FR TALLA	FL 904 893-6000	DE	6	2.07	03182179Q1		J	B	01319
4.	JUN 26	9:26PM	TO CINCINNATI	OH 513 631-8669	DE	6	1.98			36	B	J 01021
5.	JUN 26	11:36PM	TO ORLANDO	FL 305 425-2775	DN	4	.70			24	B	B 01021
6.	JUN 26	7:56PM	TO MIAMI	FL 305 596-7910	DE	4	.68			24	B	B 01021
7.	JUN 26	10:09PM	TO BELLEGLADE	FL 305 996-0732	DE	1	.28			36	B	B 01021
8.	JUN 26	10:46PM	TO BETHESDA	MD 301 897-6692	DN	11	3.12			42	B	J 01021
9.	JUN 1	6:05PM	TO MIAMI	FL 305 871-1700	DE	3	2.88	J2+1		42	B	B 01121
10.	JUN 1	7:40PM	TO COLUMBIA	SC 803 736-0420	DE	3	4.39	J2+1		12	B	J 01121
11.	JUN 1	7:54PM	TO N PALM BCH	FL 305 627-8486	DE	1	.28			24	B	B 01021
12.	JUN 1	8:11PM	TO MIAMI	FL 305 666-1256	DE	2	.38			48	B	B 01021
13.	JUN 2	9:46AM	TO MIAMI	FL 305 358-4279	DD	2	.34			24	B	B 01021
14.	JUN 2	11:38AM	TO N PALM BCH	FL 305 845-6163	DD	1	.39			18	B	B 01021
15.	JUN 2	11:39AM	TO N PALM BCH	FL 305 837-2569	PD	4	2.68	J2+2		54	B	B 01121
16.	JUN 8	8:39PM	TO WASHINGTON	DC 202 298-6381	DE	1	.39			24	B	J 01021

ITEMIZED CALLS 305-731-8176 PAGE 0004

NPA CO LINE CST EXCH CL SV BILL DA TY
305 731-8176 138 OKLD IFR 07 26 81

NO.	DATE	TIME	PLACE	AREA-NUMBER	O	MIN	AMOUNT	R--TXT ID--	D	B	S	RRMT
1.	JUL 5	8:49PM	TO GAINESVL	FL 904 373-4869	DE	5	1.48			24	B	B 01021
2.	JUL 6	1:47PM	TO ORLANDO	FL 305 856-5033	DE	7	1.93			18	B	B 01021
3.	JUL 6	7:01PM	TO BELLEGLADE	FL 305 996-0732	DE	1	.28			12	B	B 01021
4.	JUL 7	9:06AM	TO MIAMI	FL 305 358-4279	DD	1	.31			12	B	B 01021
5.	JUL 7	9:48AM	TO KEY WEST	FL 305 296-3838	DD	3	1.37			36	B	B 01021
6.	JUL 7	11:06AM	TO MIAMI	FL 305 358-4617	DD	1	.31			42	B	B 01021
7.	JUL 7	11:06AM	TO WASHINGTON	DC 202 387-1100	DD	1	.41			48	B	J 01021
8.	JUL 9	10:21PM	TO MIAMI	FL 305 666-1256	DE	2	.38			06	B	B 01021
9.	JUL 10	7:30AM	TO MIAMI	FL 305 666-1256	DN	2	.21			36	B	B 01021
10.	JUL 10	7:32AM	TO BETHESDA	MD 202 897-6692	DN	6	1.08			54	B	J 01021
11.	JUL 10	10:06AM	TO MIAMI	FL 305 358-4617	DD	1	.31			36	B	B 01021
12.	JUL 11	11:37AM	TO FTLAUDERDL	FL 305 733-1697								
		30C	NUMBER FR MIAMI	FL 305 633-9486	SN	0	1.46	J43+		+2	C	B 01122
13.	JUL 12	8:39PM	TO WINTERPARK	FL 305 831-0663	DE	1	.37			06	B	B 01021
14.	JUL 13	9:36PM	TO ATLANTA	GA 404 284-7711	PD	6	4.69	J2+1		24	B	J 01121
15.	JUL 14	11:26AM	TO MIAMI	FL 305 358-4279	DD	1	.31			12	B	B 01021

EXHIBIT 31F HOUSE



NPA CO LINE CST EACH CL SV BILL DA TY
305 731-8176 138 ORLD IFR 07 26 81

#ITEMIZED CALLS 305-731-8176 PAGE 0005

#NO.	DATE	TIME	PLACE	AREA-NUMBER	*	MIN	AMOUNT	A--TKT	ID--	D	B	S	RRMT
# 1.	JUL 14	1133AM	TO TALLAHASSEE	FL 904 222-6611	PD	10	6.20	J242	18		B	B	01121
# 2.	JUL 14	1026PM	TO W PALM BCH	FL 305 659-0671	DE	9	1.96		06		B	B	01021
# 3.	JUL 16	11 PM	FR TALLA	FL 904 599-0000	SN	6	2.64	D3201#1214		J	B	0131#	
# 4.	JUL 16	656AM	TO WASHINGTON	DC 202 393-6321	DN	1	.24		18		B	J	01021
# 5.	JUL 16	837AM	TO MIAMI	FL 305 350-0279	DD	1	.31		12		B	B	01021
# 6.	JUL 16	1259PM	TO WASHINGTON	DC 202 726-0372	DD	2	1.03		54		B	J	01021
# 7.	JUL 16	215PM	TO MIAMI	FL 305 350-0279	DD	1	.31		30		B	B	01021
# 8.	JUL 16	1049PM	TO ORLANDO	FL 305 425-2778	DE	6	1.67		18		B	B	01021
# 9.	JUL 20	907PM	TO WASHINGTON	DC 202 463-7811	DE	3	.94		06		B	J	01021
#10.	JUL 20	738PM	TO W PALM BCH	FL 305 848-6183	DE	1	.28		24		B	B	01021
#11.	JUL 20	733PM	TO MIAMI	FL 305 680-1266	DE	3	.90		06		B	B	01021
#12.	JUL 20	1108PM	TO WINTERPARK	FL 305 644-6432	DN	1	.22		12		B	B	01021
#13.	JUL 21	907PM	TO BOCA RATON	FL 305 482-2000	DE	1	.17		18		B	B	01021
#14.	JUL 21	643PM	TO ORLANDO	FL 305 425-2778	DE	4	1.15		42		B	B	01021
#15.	JUL 23	1106PM	TO TALLAHASSEE	FL 904 644-6432	SN	4	.79		30		B	B	01021
#16.	JUL 24	934PM	TO MIAMI	FL 305 380-8863	DD	1	.31		42		B	B	01021

#ITEMIZED CALLS 305-731-8176 PAGE 0006

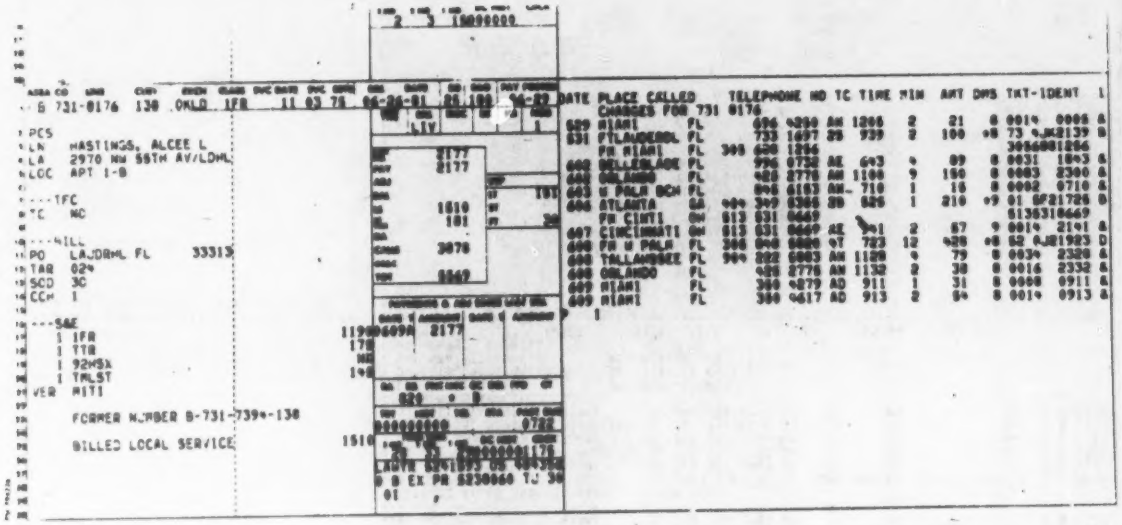
#NO.	DATE	TIME	PLACE	AREA-NUMBER	*	MIN	AMOUNT	A--TKT	ID--	D	B	S	RRMT
# 1.	JUL 24	602PM	TO MIAMI	FL 305 380-8863	DE	2	.36		18		B	B	01021
# 2.	JUL 25	916AM	TO W PALM BCH	FL 305 848-6183	DN	1	.15		06		B	B	01021
# 3.	JUL 25	920AM	TO MIAMI	FL 305 680-1266	DN	6	.58		24		B	B	01021
# 4.	JUL 25	934AM	TO HOMESTEAD	FL 305 245-0270	DN	2	.26		30		B	B	01021
# 5.	JUL 25	946AM	TO MIAMI	FL 305 226-9910	DN	9	.86		12		B	B	01021

#KEY 0-RATE APPLIED:

# DD -DIAL DAY	DE -DIAL EVENING
# DN -DIAL NITE/WKEND	SE -STATION EVENING
# SN -STA NITE/WKEND	PD -PERSON DAY
# PE -PERSON EVENING	

#INTER 17.97 INTRA 33.00 TELE .00 TOT 50.64 IND-0

NPA CO LINE CST EACH CL SV BILL DA TY
305 731-8176 138 ORLD IFR 07 26 81



PCS
LN HASTINGS, ALCEE L
LA 2970 NW 55TH AV/LDHL
LOC APT 1-B

----TFC
TC NO

----HILL
PO LA/DRHL FL 33313
TAR 02+
SCD 3C
CC# 1

----SAE
1 IFR
1 TTB
1 92WSX
1 TMLST
VER MITI

FORMER NUMBER B-731-7394-138

BILLED LOCAL SERVICE

B 731-8176 138 OKLD IFR 11 03 78 06-26-81 25.188 96-02

2177
2177
1810
181
3878
3862

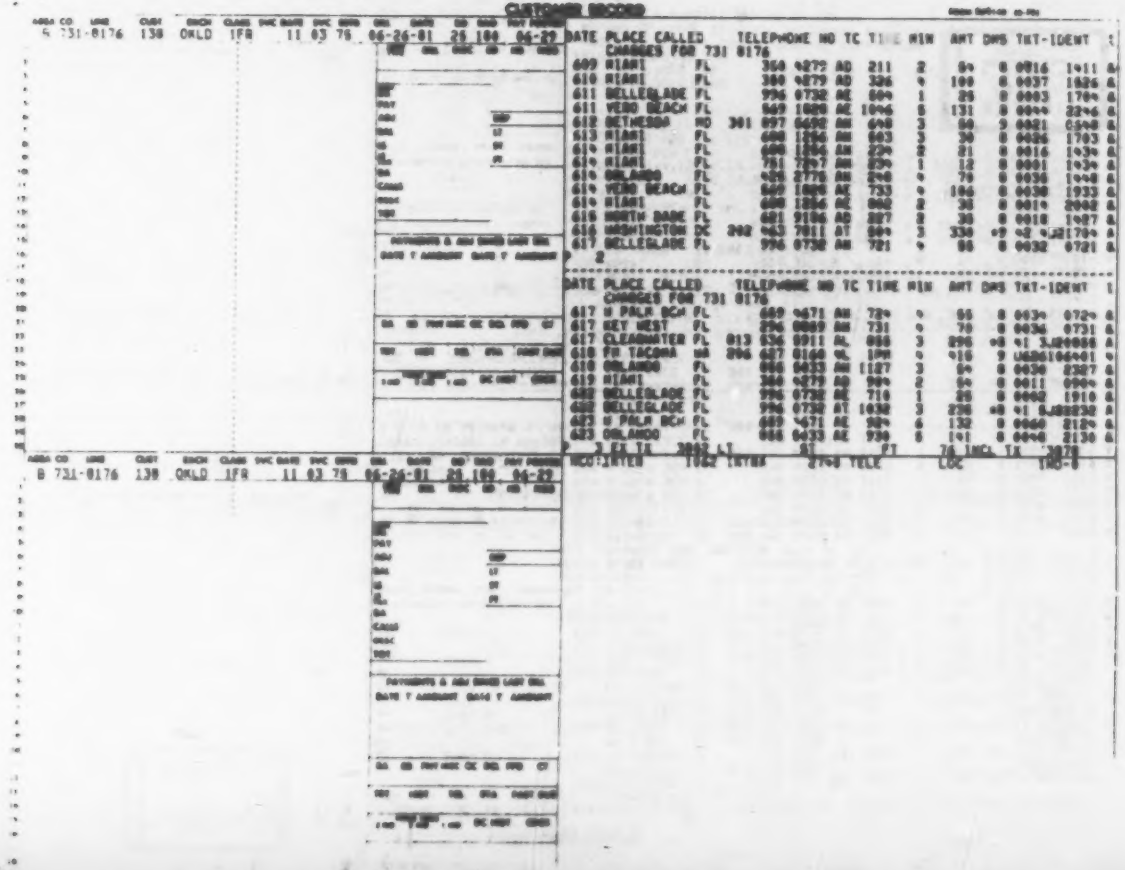
DATE	PLACE CALLED		TELEPHONE NO	TC	TIME	MIN	ANT	DWS	TKT-IDENT	
	CHARGES FOR 731 8176									
629	MIAMI	FL	696 9290	AN	1206	2	21	0	0019 0006	A
631	FTLAUDERDL	FL	733 1697	25	939	2	100	+0	73 [illegible]2139	B
	FR MIAMI	FL	305 620 1246						30660981286	
602	DELLEBLADE	FL	996 0732	AE	643	+	09	0	0031 1043	A
602	ORLANDO	FL	420 2776	AN	1106	9	100	0	0003 2300	A
603	W PALM BCH	FL	845 6183	RR-	710	1	15	0	0002 0710	A
606	ATLANTA	GA	404 349 0388	28	826	1	210	+9	01 6P21726	B
	FR CINTI	OH	513 631 0469						61365184669	
607	CINCINNATI	OH	513 631 0469	AE	941	2	67	0	0019 2101	A
608	FR W PALM	FL	305 848 0886	WT	703	12	+20	+0	58 6J01983	D
608	TALLAHASEE	FL	904 222 0803	AN	1108	+	79	0	0030 2320	A
608	ORLANDO	FL	420 2776	AN	1132	2	38	0	0016 2332	A
609	MIAMI	FL	350 4879	AD	911	1	31	0	0008 0911	A
609	MIAMI	FL	350 4617	AD	913	2	04	0	0019 0913	A

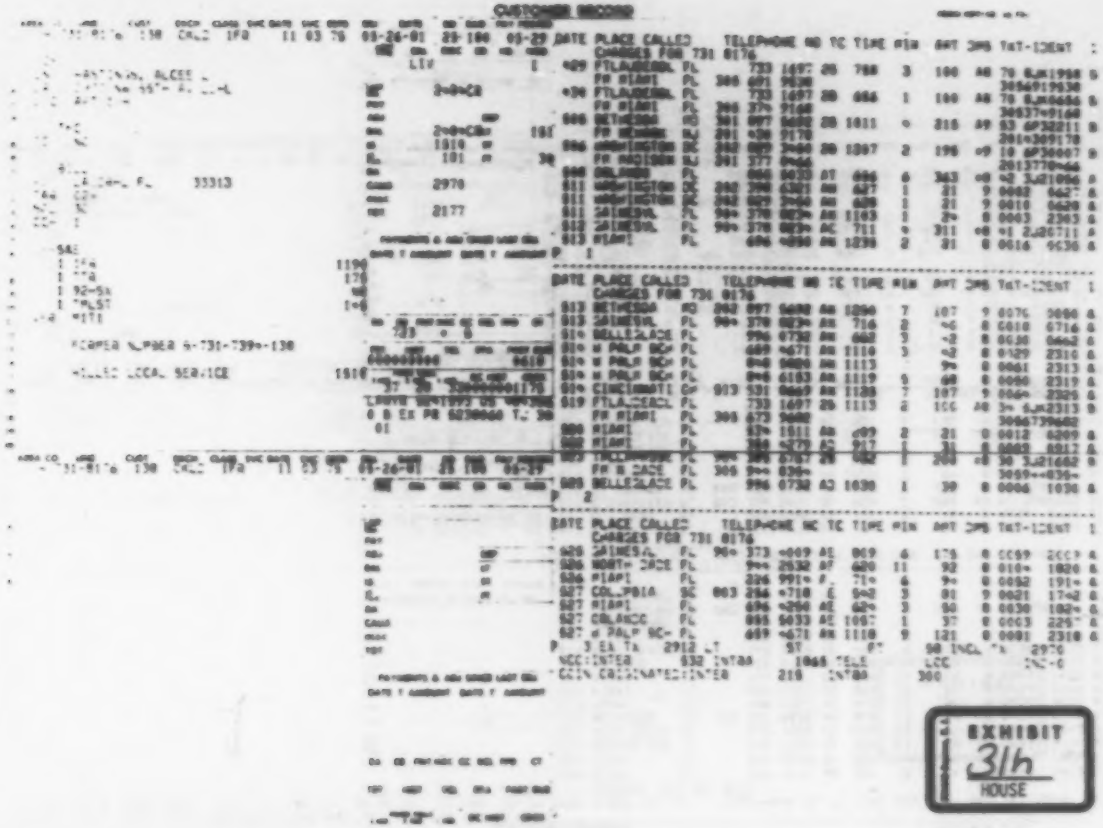
1

B B EX PR 8230060 TJ 30

280

EXHIBIT 3/9 HOUSE


CUSTOMER RECORD
A 731-0176 130 ORLD 1FR 11 03 79 06-26-81 25 100 96-22
B 731-0176 130 ORLD 1FR 11 03 79 06-26-81 25 100 96-22
DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT DHS TKT-IDENT
CHARGES FOR 731 0176
609 MIAMI FL 350 4272 AD 211 2 9¢ 0 0816 1411
610 MIAMI FL 380 4879 AD 326 * 10¢ 0 0037 1826
611 BELLEGLADE FL 996 0730 AE 604 1 2¢ 0 0003 1704
611 VERO BEACH FL 569 1080 AE 1046 8 131 0 0044 2246
612 BETHESDA MD 301 897 6450 AN 640 3 8¢ 5 0021 0340
613 MIAMI FL 688 1356 AN 603 3 3¢ 0 0036 1703
614 MIAMI FL 688 1356 AN 226 2 8¢ 0 0016 1434
614 MIAMI FL 591 7757 AN 626 1 1¢ 0 0001 1434
614 ORLANDO FL 425 2770 AN 248 * 7¢ 0 0038 1948
614 VERO BEACH FL 567 1888 AE 733 * 10¢ 0 0038 1933
614 MIAMI FL 688 1356 AE 882 2 3¢ 0 0014 2040
616 NORTH DADE FL 681 9186 AD 827 2 3¢ 0 0018 1927
616 WASHINGTON DC 202 463 7011 AT 844 3 33¢ +3 +2 +.33 1704
617 BELLEGLADE FL 996 0730 AN 721 * 9¢ 0 0032 0721
2
DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT DHS TKT-IDENT
CHARGES FOR 731 0176
617 N PALM BCH FL 689 4471 AN 724 * 9¢ 0 0034 0724
617 KEY WEST FL 296 0869 AN 731 * 7¢ 0 0036 0731
617 CLEARWATER FL 813 536 0911 AL 858 3 29¢ +6 +1 3.10 0858
618 FB TACOMA WA 206 627 0160 CL 1PM * 41¢ 9 US8618046401
618 ORLANDO FL 866 6433 AN 1127 3 6¢ 0 0030 2327
619 MIAMI FL 388 4879 AD 904 2 6¢ 0 0011 0904
622 BELLEGLADE FL 996 0730 AE 710 1 2¢ 0 0002 1910
622 BELLEGLADE FL 996 0730 AT 1032 3 23¢ +6 +1 2.48 0232
623 N PALM BCH FL 689 4471 AE 924 4 13¢ 0 0040 2124
623 ORLANDO FL 866 6433 AE 930 8 14¢ 0 0040 2130
3 ES TX 3892.41 51 FT 76 INCL TX 3878
INCOMINTER 1082 INTRA 2798 TELE LOC TWX-0

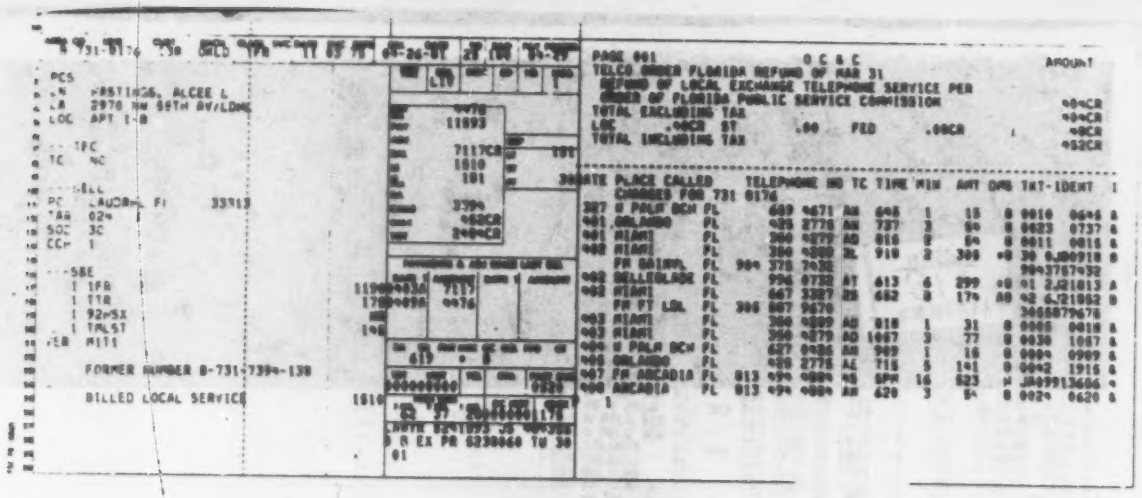


CUSTOMER RECORD

DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT JMS TAX-IDENT

CHARGES FOR 731 0176

EXHIBIT 31h HOUSE



PAGE 001 O C & C AMOUNT

TELCO ORDER FLORIDA REFUND OF MAR 31

REFUND OF LOCAL EXCHANGE TELEPHONE SERVICE PER

ORDER OF FLORIDA PUBLIC SERVICE COMMISSION

TOTAL EXCLUDING TAX +0+CR

LOC .+0CR ST .00 FED .00CR TOTAL INCLUDING TAX +52CR

DATE	PLACE CALLED		TELEPHONE NO	TC	TIME	MIN	AMT	DMS	TKT-IDENT	I
	CHARGES FOR 731 0176									
307	W PALM BCH	FL	689 +671	AN	648	1	15	8	0010 0648	A
+01	ORLANDO	FL	+23 2778	AN	737	3	54	8	0023 0737	A
+01	MIAMI	FL	388 +272	AD	816	2	54	8	0011 0816	A
+02	MIAMI	FL	388 +288	JL	910	2	308	+8	30 6J00910	B
	FR BAIRVL	FL	904 375 7432						9047757432	
+02	DELLEGLADE	FL	996 0732	AT	613	6	299	+8	+1 2J01013	A
+02	MIAMI	FL	667 3387	JS	652	8	174	A8	+2 6J21002	B
	FR FT LDL	FL	305 887 9670						3058879670	
+03	MIAMI	FL	388 +889	AD	818	1	31	8	0005 0818	A
+03	MIAMI	FL	388 +879	AD	1007	3	77	8	0030 1007	A
+04	W PALM BCH	FL	627 0426	AN	909	1	16	8	0004 0909	A
+05	ORLANDO	FL	+23 2778	AE	715	5	141	8	0042 1915	A
+07	FR ARCADIA	FL 813	+94 +884	+5	SPM	16	823	M	J3499136864	+
+08	ARCADIA	FL 813	+94 +884	AN	620	3	54	8	0024 0620	A

1

CUSTOMER RECORD

DATE	PLACE CALLED		TELEPHONE NO	TC	TIME	MIN	AMT	DMS	TKT-IDENT	I
	CHARGES FOR 731 0176									
+09	ARCADIA	FL	813 +94 +884	AN	121	1	22	8	0002 0121	A
+09	W PALM BCH	FL	689 +671	AN	122	1	15	8	0008 0122	A
+09	ARCADIA	FL	813 +94 +884	AN	702	6	102	8	0056 0702	A
+09	WASHINGTON	DC	202 789 0108	2K	1214	1	225	A9	73 3JK1214	3
	FR MIAMI	FL	305 374 9650						3053749650	
+09	WASHINGTON	DC	202 789 0108	2K	1215	1	225	A9	73 8JK1215	B
	FR MIAMI	FL	305 374 9650						3053749650	
+10	W PALM BCH	FL	627 0426	AN	660	2	20	8	0014 0660	A
+20	MIAMI	FL	696 6738	AE	1011	8	124	8	0071 2211	A
+22	CLEARWATER	FL 813	+61 1616	2L	339	2	298	A8	72 9JK1539	B
	FR MIAMI	FL 305	871 9213						3058719213	
+22	ORLANDO	FL	+23 6194	2L	230	1	298	A8	72 3JK1430	B
	FR MIAMI	FL 305	871 9870						3058719870	
+22	FR MIAMI	FL 305	871 9870	+K	231	2	100	A8	73 2JK1431	C

2

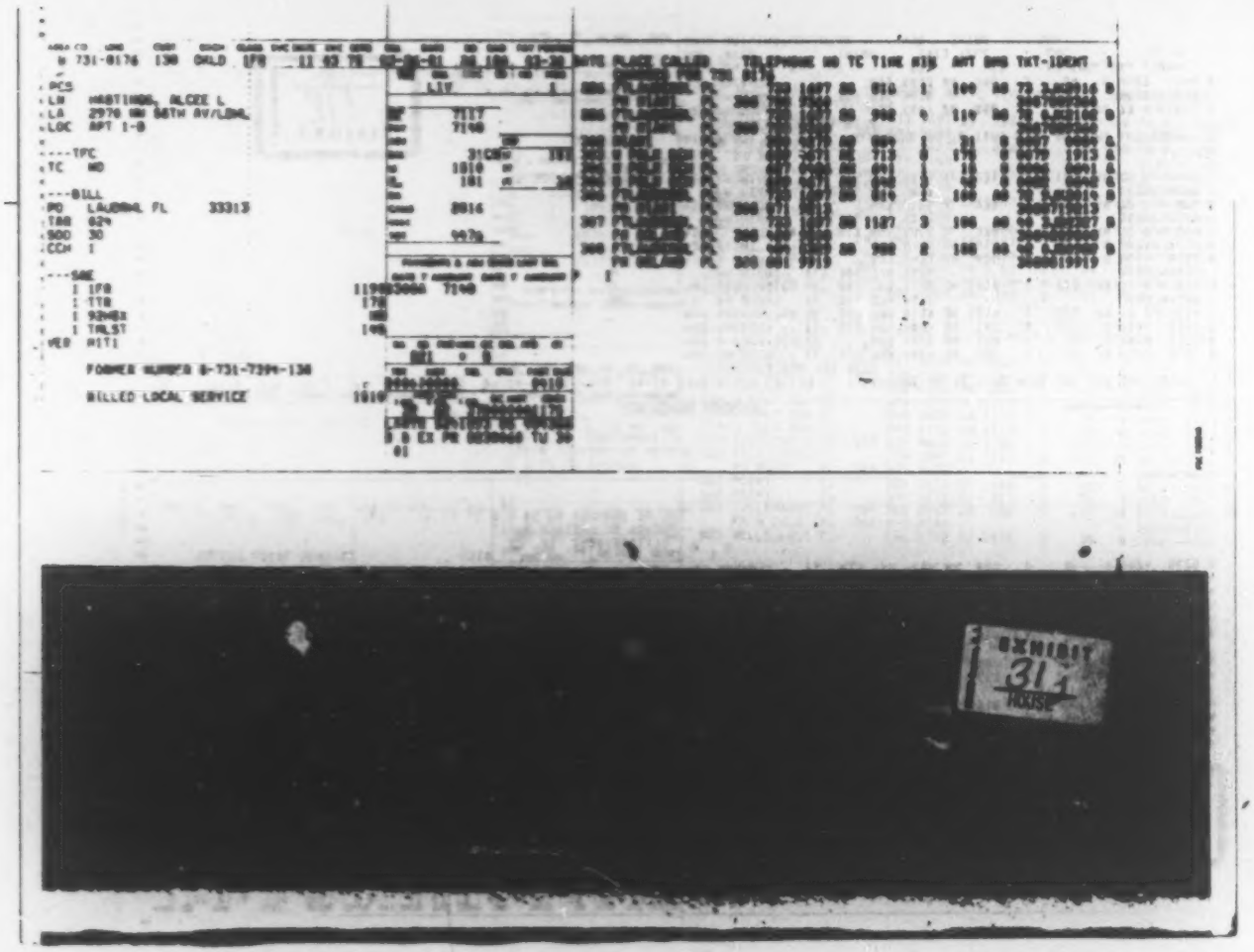
DATE	PLACE CALLED		TELEPHONE NO	TC	TIME	MIN	AMT	DMS	TKT-IDENT	I
	CHARGES FOR 731 0176									
+25	FTLAUDERDL	FL	733 1697	2B	866	2	100	A8	73 8JK2056	B
	FR MIAMI	FL	305 871 9675						3058719675	
+26	ORLANDO	FL	865 8033	AN	346	3	54	8	0023 1546	A

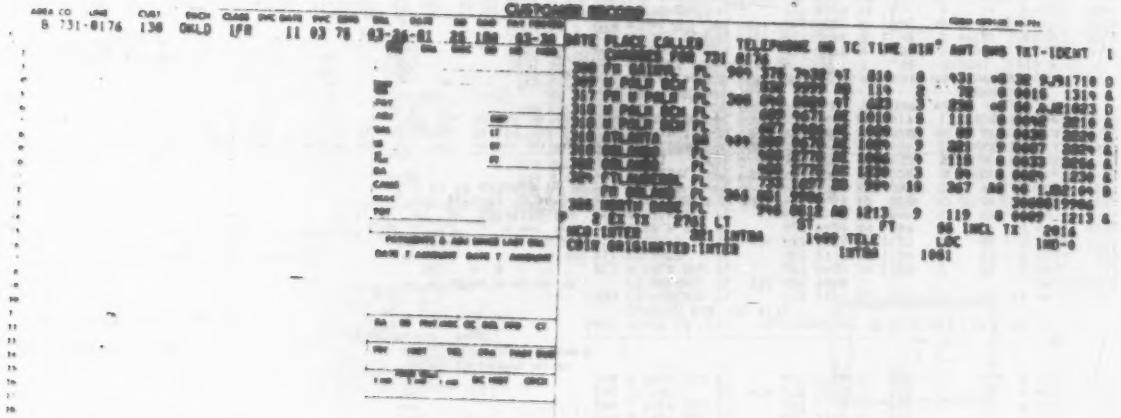
3 EX TX 3.00 LT .51 FT .67 INCL TX 3394

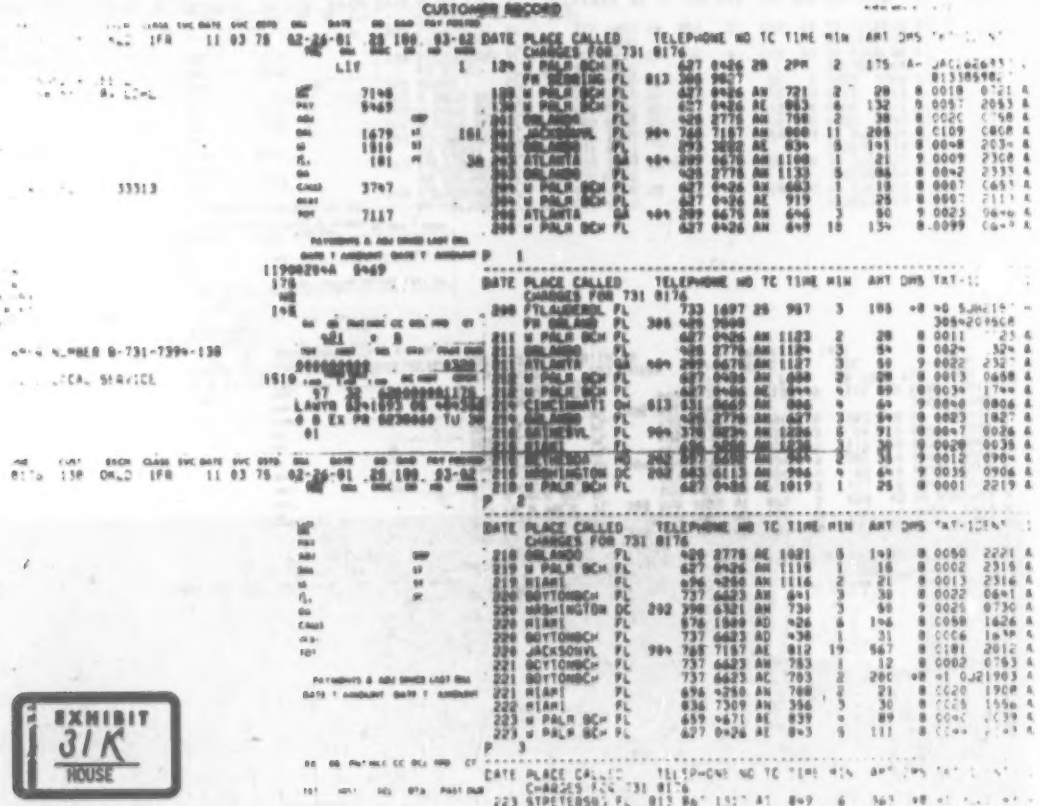
MCO: INTER INTRA 1913 TELE LOC INC-0

COIN ORIGINATED: INTER +80 INTRA 964

EXHIBIT 31i HOUSE


PCS
LN HASTINGS, ALICE L
LA 2970 NW 56TH AV/LDHL
LOC APT 1-B
TPC
TC MD
BILL
PO LAUDHL FL 33313
TAB 629
SOD 30
CCH 1
SAC
VER A1T1
FORMER NUMBER 0-731-7394-136
BILLED LOCAL SERVICE
EXHIBIT
31
HOUSE


CUSTOMER RECORD
AREA CO LINE CUST BNCH CLASS SVC DATE SVC CODE DIAL CLASS SO CHGD PAY METHOD
B 731-0176 130 OKLO 1FB 11 03 78 03-26-81 26 180 03-30
DATE PLACE CALLED TELEPHONE NO TC TIME MIN* AMT CHG TRT-IDENT I
CHARGES FOR 731 0176
OKLAHOMA LT
MCD:LISTED 201 INTRA 1400 TELE LOC IND-0
CDIN ORIGINATED:LISTED INTRA 1061



CUSTOMER RECORD

EXHIBIT 31K HOUSE

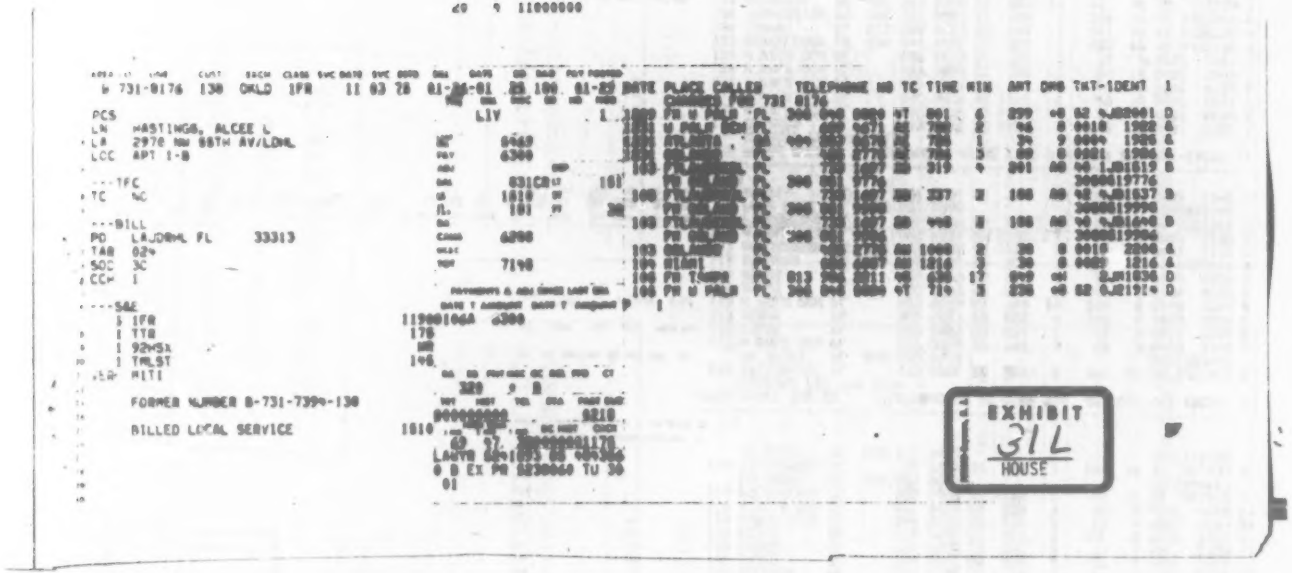


EXHIBIT
31L
HOUSE

To Bill
Date 9/10 Time 5:20
WHILE YOU WERE OUT
M. Al Hastings
of
Phone 305 350 4279
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message He'll be waiting your call - Have them get him at the bench Mr. Galaz left them # if you call to get his cell phone

AMPAD EFFICIENCY® 23-030

GOVERNMENT EXHIBIT 28

To Bill
Date 9/10 Time 5:20
WHILE YOU WERE OUT
M. Jennifer Boeke
of Metabolon Labs Service
Phone 462 4385

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message 1111 Fairmont St. NW
Morgan v Maurice Gordon
Wants money out of escrow

AMPAD EFFICIENCY® 23-030

001692

from Ic 29A

To Bill
Date 9/11 Time 9:15
WHILE YOU WERE OUT
M. Laura Martin
of
Phone

TELEP
CALLI
WANT

Mess
Sa
Ly
al

AMP
EFFI

To
Date 9/11 Time 9:15
WHILE YOU WERE OUT
M. Roberts
of
Phone Area Code Number Extension

PLEASE CALL	
WILL CALL AGAIN	
URGENT	
R CALL	

Operator

23-030

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 32

EXHIBIT 32 HOUSE

To [illegible]
Date 9/11 Time 9

WHILE YOU WERE OUT

M. Deanna Columbia Title
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
2035 Park Rd.

Operator

AMPAD EFFICIENCY® 23-030

To [illegible]
Date 9/11 Time 9

WHILE YOU WERE OUT

M. Mike Carney
of CIA-Chrysler Prod
Phone 331-5631
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030

001693

To B Bell
Date 9/11 Time 945

WHILE YOU WERE OUT

M. Deanna Williams
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030

To B Bell
Date 9/11 Time 945

WHILE YOU WERE OUT

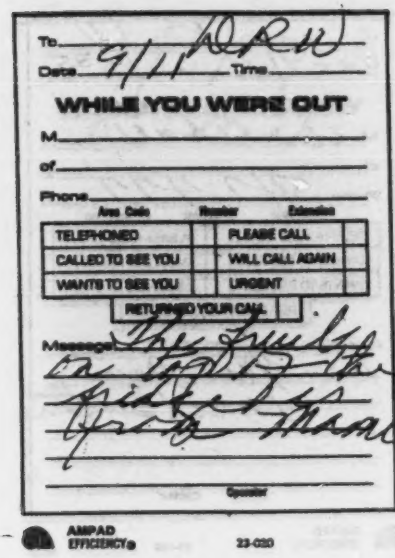
M. Johnnie Nickerson
of
Phone 804-423-7681
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Re: Wanda
Tuckers husband

Operator

AMPAD EFFICIENCY® 23-030



To [illegible] Date 9/11 Time [illegible]

WHILE YOU WERE OUT

M [illegible]

of [illegible]

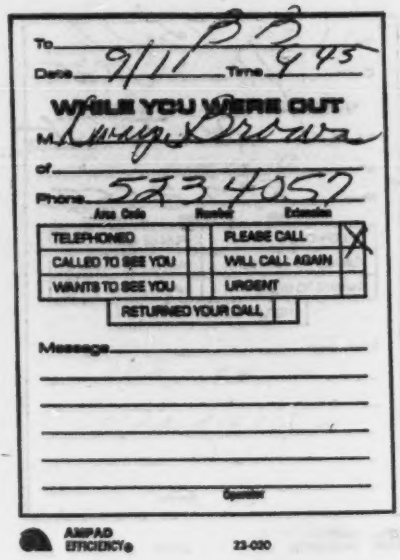
Phone [illegible]
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message [illegible]

Operator

AMPAD EFFICIENCY® 23-020



To [illegible] Date 9/11 Time 9 45

WHILE YOU WERE OUT

M Doug Brown

of [illegible]

Phone 5234052
Area Code Number Extension

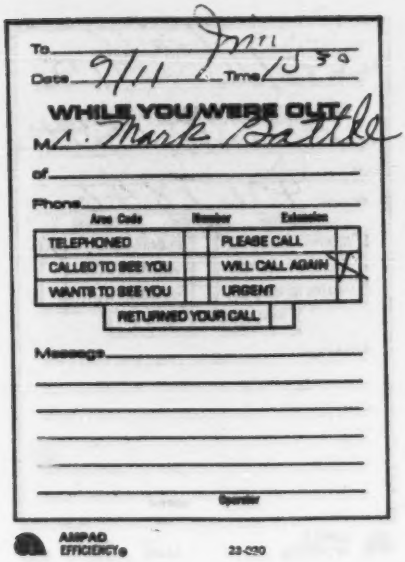
TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message [illegible]

Operator

AMPAD EFFICIENCY® 23-020

001694



To [illegible] Date 9/11 Time 1530

WHILE YOU WERE OUT

M Mark Battle

of [illegible]

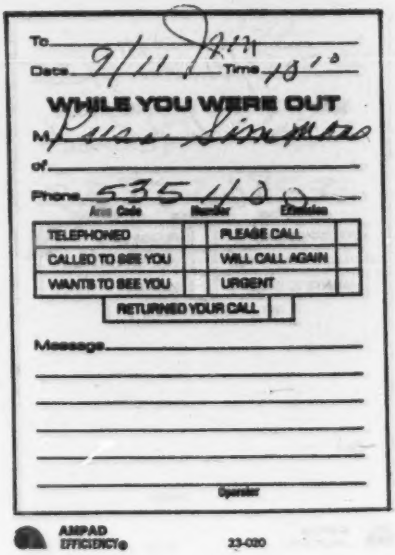
Phone [illegible]
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	X
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message [illegible]

Operator

AMPAD EFFICIENCY® 23-020



To [illegible] Date 9/11 Time 1810

WHILE YOU WERE OUT

M Susan Simmons

of [illegible]

Phone 5354400
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message [illegible]

Operator

AMPAD EFFICIENCY® 23-020

To Bill
Date 9/11 Time 1135
WHILE YOU WERE OUT
M Mrs Featherstone
of
Phone 832 3553
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Operator

AMPAD EFFICIENCY 23-030

To Bill
Date 9/11 Time 1135
WHILE YOU WERE OUT
M Mrs Abell
of
Phone 547 477
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Re: Mrs Jesse Featherstone
Operator

AMPAD EFFICIENCY 23-030

001695

To Jim
Date 9/11 Time 1125
WHILE YOU WERE OUT
M Frank Kent
of
Phone 865 8833
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Operator

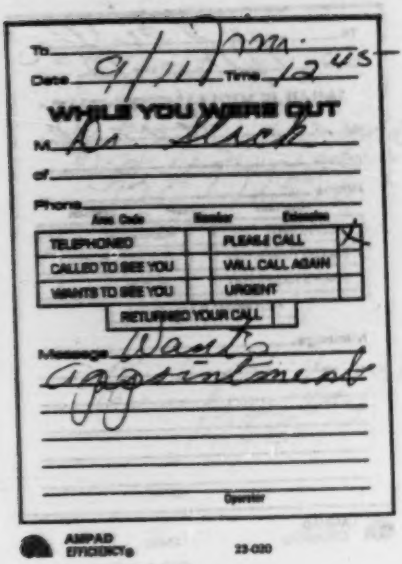
AMPAD EFFICIENCY 23-030

To Bill
Date 9/11 Time 1115
WHILE YOU WERE OUT
M McKinley Battle
of
Phone 471 1846
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Operator

AMPAD EFFICIENCY 23-030



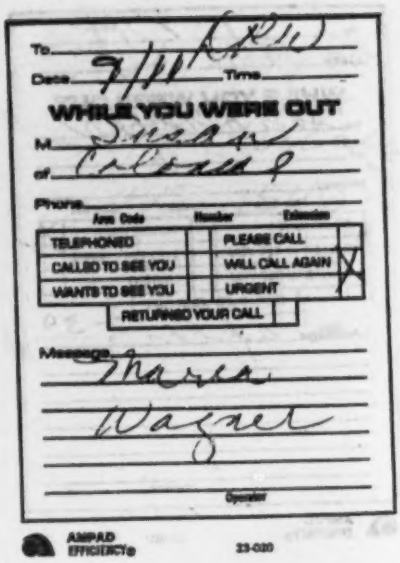
To
Date 9/11 Time 12 05
WHILE YOU WERE OUT
M Dr Block
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message Wants appointment

Operator

AMPAD EFFICIENCY® 23-020



To
Date 9/11 Time
WHILE YOU WERE OUT
M Susan
of Colonial
Phone
Area Code Number Extension

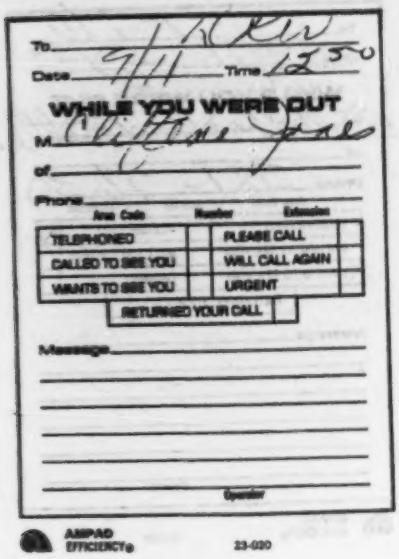
TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	X
WANTS TO SEE YOU		URGENT	X
RETURNED YOUR CALL			

Message Marsa Wagner

Operator

AMPAD EFFICIENCY® 23-020

001696



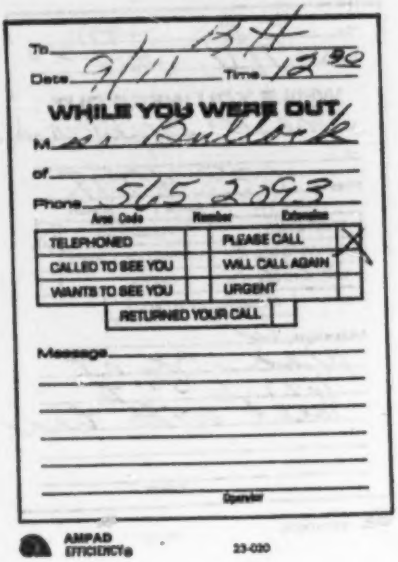
To KRN
Date 9/11 Time 12 50
WHILE YOU WERE OUT
M Clifton Jones
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-020



To BH
Date 9/11 Time 12 50
WHILE YOU WERE OUT
M Mr Bullock
of
Phone 565 2093
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-020

To BH
Date 9/11 Time 1 30

WHILE YOU WERE OUT

M ss Draper
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message after 3 30

Operator

AMPAD EFFICIENCY® 23-020

To Bill
Date 9/11 Time 12 50

WHILE YOU WERE OUT

M Miss Howard
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-020

001697

To Jim
Date 9/11 Time 1 20

WHILE YOU WERE OUT

M Merita Williams
of
Phone 638 4798
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message Is
Wed - SK at
6 30 to
meet with her

Operator

AMPAD EFFICIENCY® 23-020

To Bill
Date 9/11 Time 12 50

WHILE YOU WERE OUT

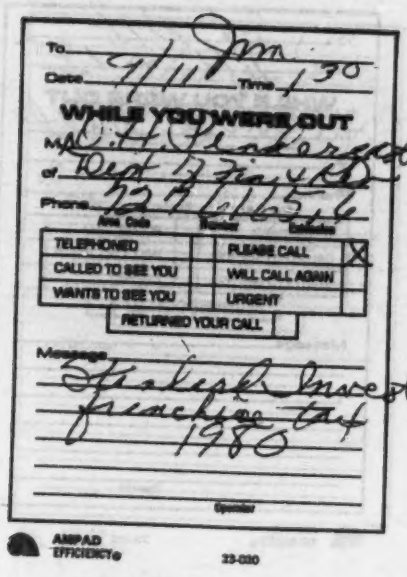
M McKinley Bottle
of
Phone 581 - 7630
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-020



To: [illegible] Date: 9/11 Time: 1:30

WHILE YOU WERE OUT

M. D.H. Pendergrast

of Dept of Finance

Phone 727-6526

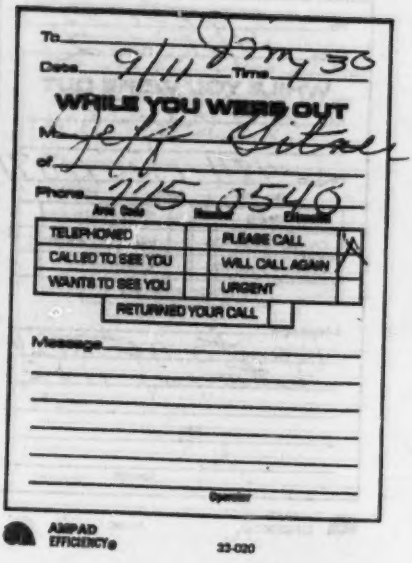
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message: Telephone Invest franchise tax 1980

Operator

AMPAD EFFICIENCY® 23-030



To: [illegible] Date: 9/11 Time: 3:30

WHILE YOU WERE OUT

M. Jeff Gitaes

of [illegible]

Phone 745-0546

Area Code Number Extension

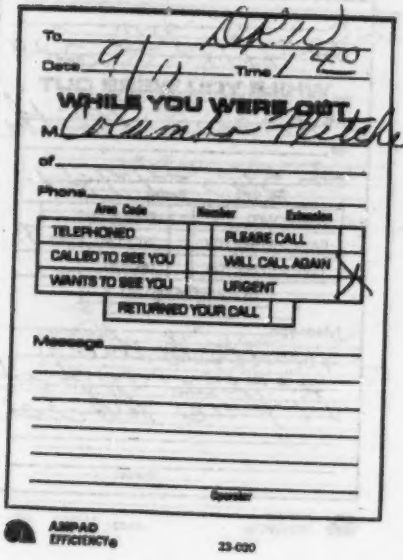
TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030

001698



To: DRW Date: 9/11 Time: 1:40

WHILE YOU WERE OUT

M. Columbo Fletcher

of [illegible]

Phone [illegible]

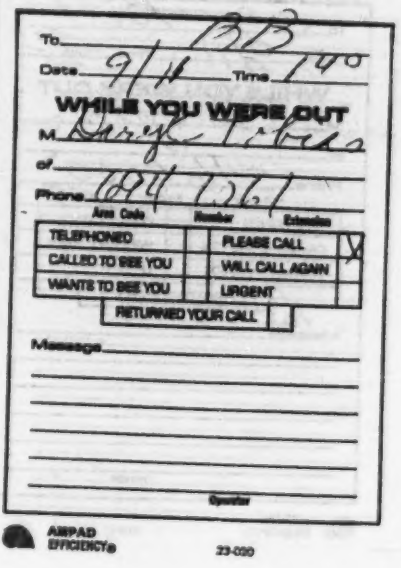
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	X
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030



To: BB Date: 9/11 Time: 1:40

WHILE YOU WERE OUT

M. Dwight Peters

of [illegible]

Phone 684-1361

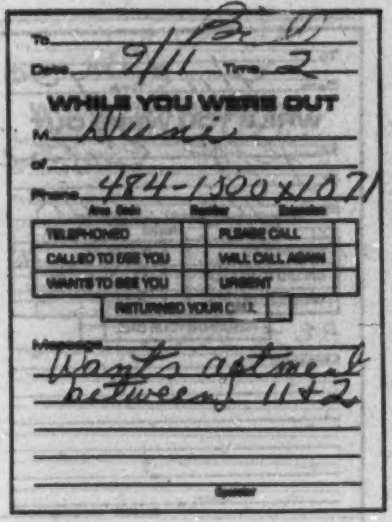
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030



To Bill
Date 9/11 Time 2
WHILE YOU WERE OUT
M Music
of
Phone 484-1300 x1071
Area Code Number Extension

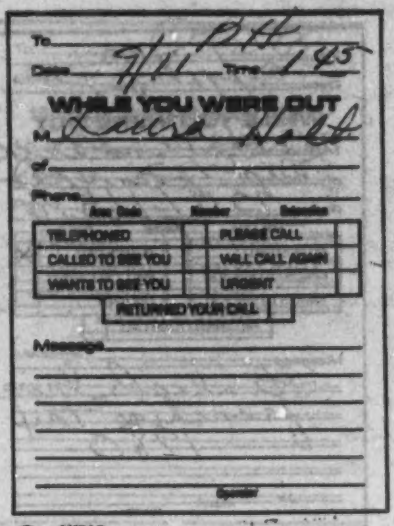
TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	

RETURNED YOUR C[illegible]

Message
Wants apt meet between 11+2

Operator

AMPAD DYCLECT 23-030



To PH
Date 9/11 Time 145
WHILE YOU WERE OUT
M Laura Holt
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	

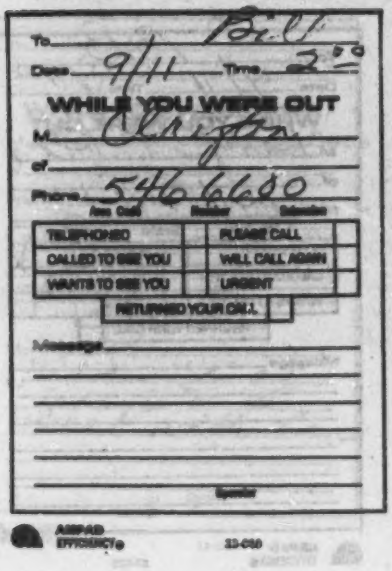
RETURNED YOUR CALL

Message

Operator

AMPAD DYCLECT 23-030

001699



To Bill
Date 9/11 Time 2:00
WHILE YOU WERE OUT
M Clinton
of
Phone 546 6600
Area Code Number Extension

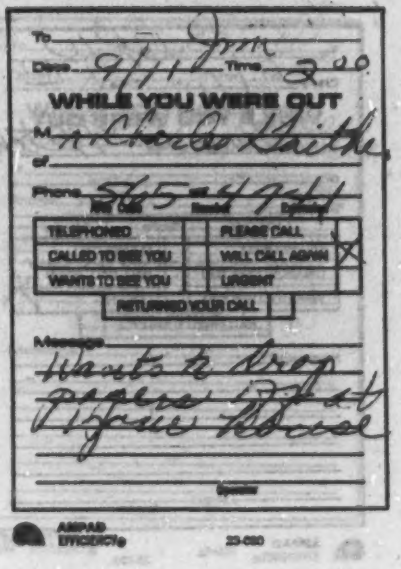
TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	

RETURNED YOUR CALL

Message

Operator

AMPAD DYCLECT 23-030



To Jim
Date 9/11 Time 2:00
WHILE YOU WERE OUT
M Archbishop Laithe
of
Phone 565 4944
Area Code Number Extension

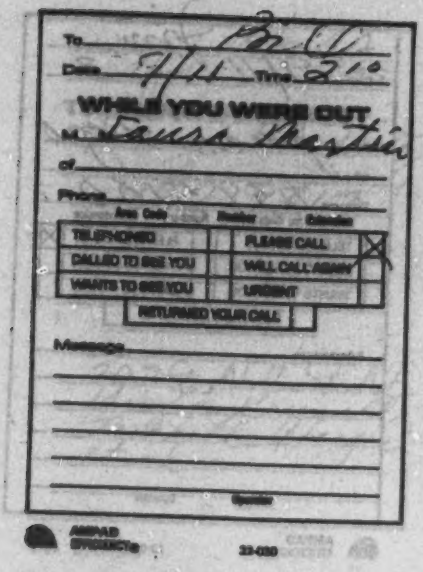
TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	X
WANTS TO SEE YOU		URGENT	

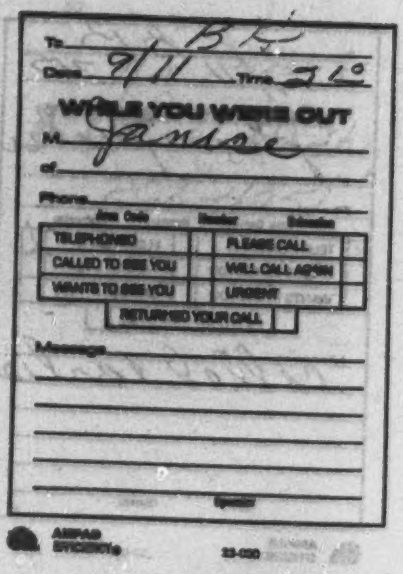
RETURNED YOUR CALL

Message
Wants to drop papers by at Pigeon Roost

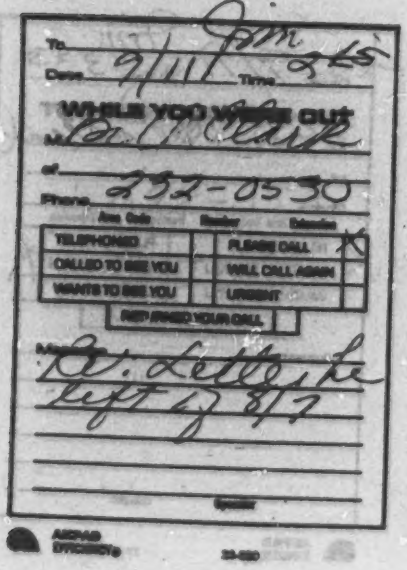
Operator

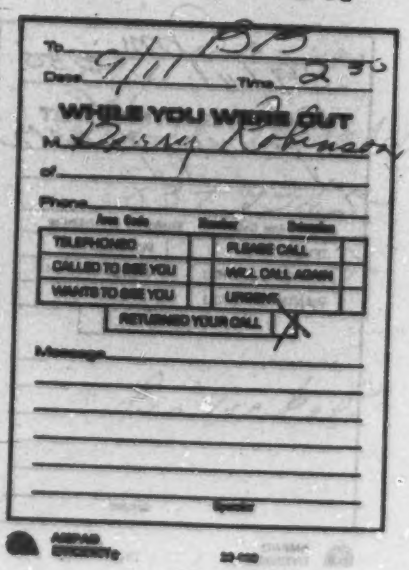
AMPAD DYCLECT 23-030


To: BM
Date: 9/11 Time: 2:10
WHILE YOU WERE OUT
M. Laura Martin
of
Phone
Area Code Number Extension
TELEPHONED | PLEASE CALL | X
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message
Operator
ABRAM SYSTEMS 22-030


To: BF
Date: 9/11 Time: 2:10
WHILE YOU WERE OUT
M. Janice
of
Phone
Area Code Number Extension
TELEPHONED | PLEASE CALL
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message
Operator
ABRAM SYSTEMS 22-030

001700


To: JM 2:15
Date: 9/11 Time:
WHILE YOU WERE OUT
M. Patrick
of
Phone 232-0530
Area Code Number Extension
TELEPHONED | PLEASE CALL | X
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message
Dr. Lettieri
left 4 8/7
Operator
ABRAM SYSTEMS 22-030


To: BM
Date: 9/11 Time: 2:30
WHILE YOU WERE OUT
M. Barry Robinson
of
Phone
Area Code Number Extension
TELEPHONED | PLEASE CALL
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL | X
Message
Operator
ABRAM SYSTEMS 22-030

CUSTOMER RECORD
DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT DHG TXT-IDENT I
CHARGES FOR 731 0176
126 W PALO DCH PL 427 9984 DC 708 1 20 0 0002 1946 A
0 EX TX 6148 LT 97 77 123 INCL TX 6200
HCO:INTER 1031 INTRA 3403 TELE LOC 1HD-0
COIN ORIGINATED:INTER INTRA 951

To BB
Date 9/11 Time 335

WHILE YOU WERE OUT

M Johnny Tucker
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO BE YOU		URGENT	
RETURNED YOUR CALL			

Message Called earlier

Operator

AMPAD EFFICIENCY® 23-030

To JM
Date 9/11 Time 3

WHILE YOU WERE OUT

M Juan Lyn
of
Phone 638 5100
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO BE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030

001701

To JM
Date 9/11 Time 330

WHILE YOU WERE OUT

M Jonny Flores
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO BE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030

To JM
Date 9/11 Time 325

WHILE YOU WERE OUT

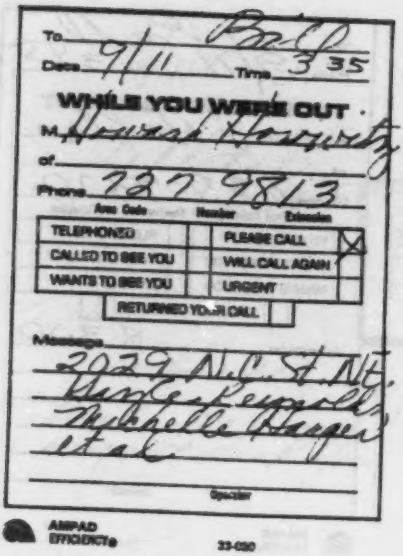
M Ft. Cleveland
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO BE YOU		URGENT	X
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-030

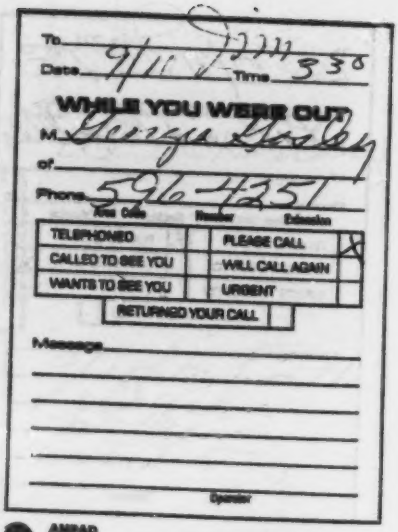


To Barb
Date 9/11 Time 335
WHILE YOU WERE OUT
M Howard Horowitz
of
Phone 727 9813
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
2029 N.C. St. NW.
Dante Reynolds
Michelle Hagen
et al
Operator

AMPAD EFFICIENCY® 23-050



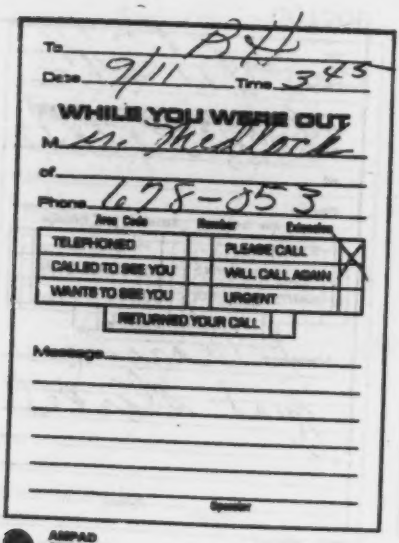
To Jim
Date 9/11 Time 330
WHILE YOU WERE OUT
M George Healey
of
Phone 596-4251
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Operator

AMPAD EFFICIENCY® 23-050

001702

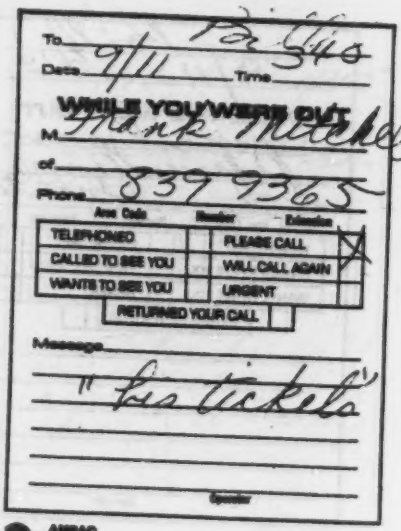


To BH
Date 9/11 Time 345
WHILE YOU WERE OUT
M Mr. Shedlock
of
Phone 628-853
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Operator

AMPAD EFFICIENCY® 23-050

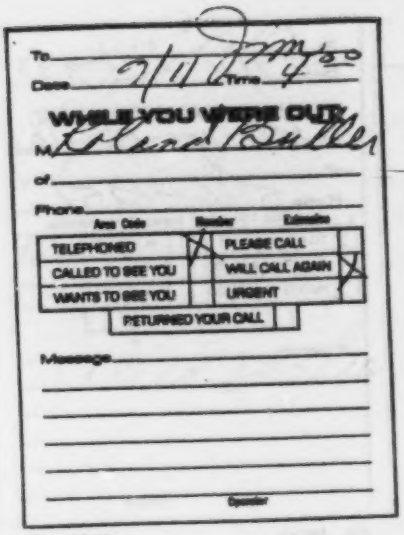


To Barb
Date 9/11 Time 340
WHILE YOU WERE OUT
M Frank Mitchell
of
Phone 839 9365
Area Code Number Extension

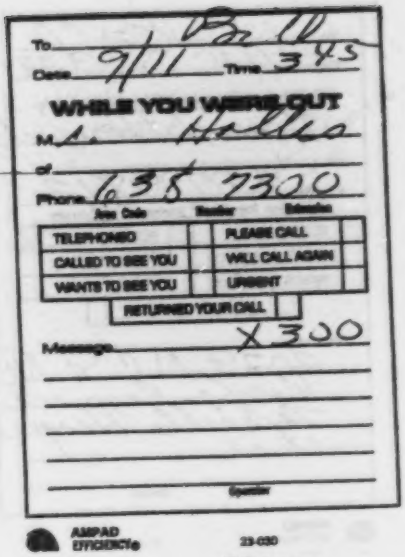
TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
" has tickets
Operator

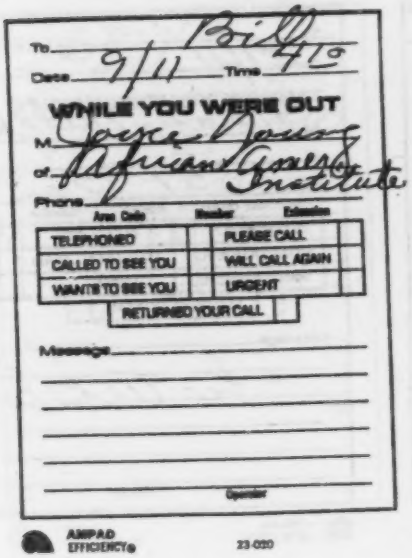
AMPAD EFFICIENCY® 23-050

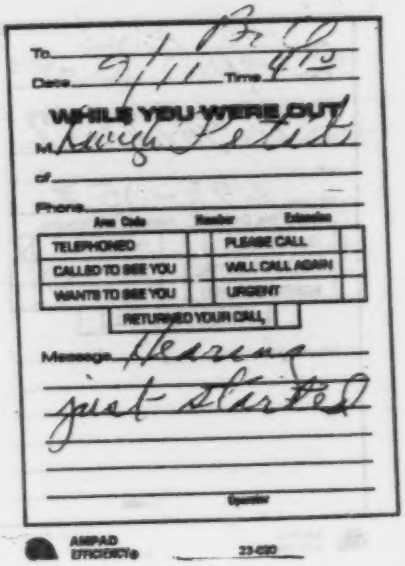

To Jim 50
Date 9/11 Time 4
WHILE YOU WERE OUT
M. Roland Butler
of
Phone
Area Code Number Extension
TELEPHONED | PLEASE CALL
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message
Operator
AMPAD EFFICIENCY 23-030

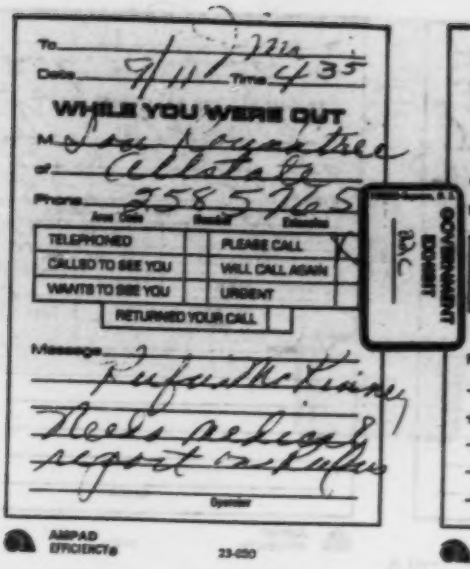
001703


To Bill
Date 9/11 Time 345
WHILE YOU WERE OUT
M. Hollis
of
Phone 638 7300
Area Code Number Extension
TELEPHONED | PLEASE CALL
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message X300
Operator
AMPAD EFFICIENCY 23-030

001704


To Bill 40
Date 9/11 Time
WHILE YOU WERE OUT
M. Joyce Dawson
of African American Institute
Phone
Area Code Number Extension
TELEPHONED | PLEASE CALL
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message
Operator
AMPAD EFFICIENCY 23-030


To Bill 45
Date 9/11 Time
WHILE YOU WERE OUT
M. Hugh Petit
of
Phone
Area Code Number Extension
TELEPHONED | PLEASE CALL
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message Hearing just started
Operator
AMPAD EFFICIENCY 23-030



To
Date 9/11 Time 435
WHILE YOU WERE OUT
M Lou Poyanteo
of Allstate
Phone 258 5765
Area Code Number Extension

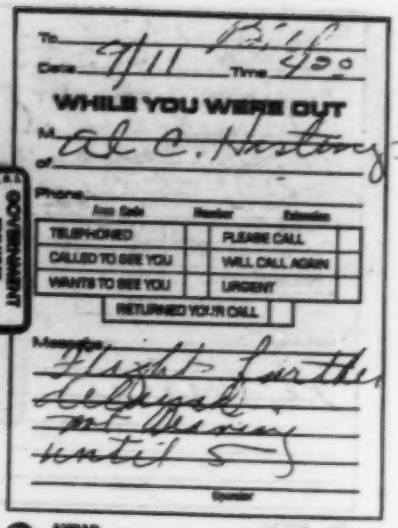
TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message Refund Kinney
Needs policy &
report carbon

Operator

AMPAD EFFICIENCY® 23-020

GOVERNMENT EXHIBIT 29C



To
Date 9/11 Time 420
WHILE YOU WERE OUT
M Ed C. Hastings
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

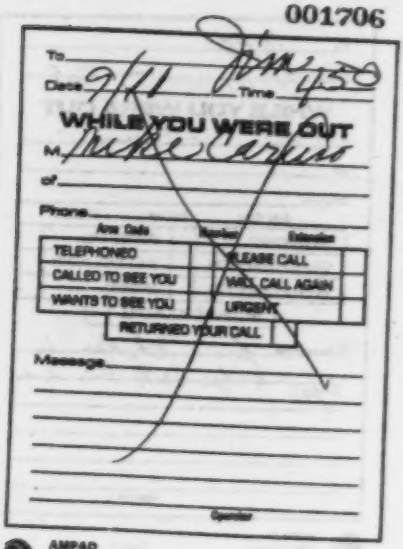
Message Flight further
delayed
AT Moving
until 5

Operator

AMPAD EFFICIENCY® 23-020

from IC 29A 001705

001706



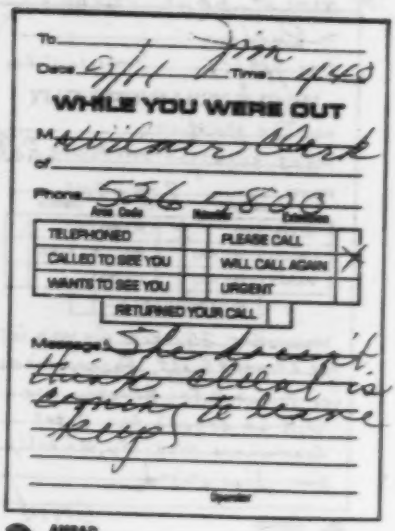
To
Date 9/11 Time 450
WHILE YOU WERE OUT
M Mike Carlino
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-020



To
Date 9/11 Time 440
WHILE YOU WERE OUT
M Widmer Clerk
of
Phone 536 5800
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	X
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message She doesn't
think client is
coming to leave
keys

Operator

AMPAD EFFICIENCY® 23-020

To [illegible] Time 5
Date 9/11

WHILE YOU WERE OUT

M Samuel McLeod
of Barr Counsell
Phone 638-1501
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message Re: Fisher

Operator

AMPAD EFFICIENCY® 23-020

from IC 29A

To [illegible] Time 4:25
Date 9/11

WHILE YOU WERE OUT

M E. Cleveland
of
Phone 659-5275
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator

AMPAD EFFICIENCY® 23-020

001707

In name of Frank Steinhart

To Borders
Date 7/8/81 Time 4:45 PM

WHILE YOU WERE OUT

M Joe Nettine
of Las Vegas Caesars Palace, Nev.
Phone 734-7410
Area Code Number Extension

TELEPHONED	X	PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message Has 3 tickets for you for the Leonard fight. Reservations for you at Hotel Riviera. He will be around the Hotel Somewhere probably the lobby. Have him paged.

Operator CHIN

AMPAD EFFICIENCY® 23-020

To [illegible]
Date 9-11-81 Time 8:45

WHILE YOU WERE OUT

M Carol Ann Elmore
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

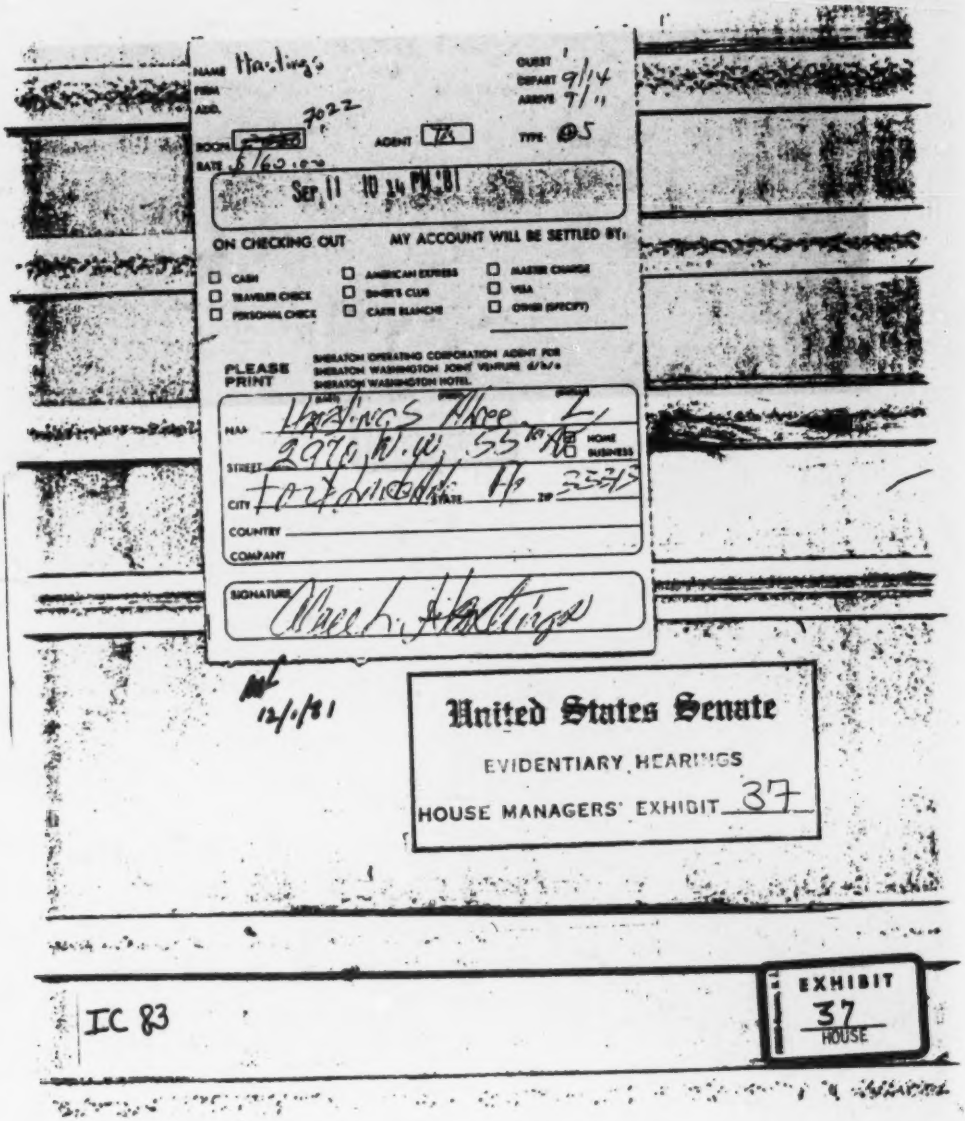
Message Is in ct. Rm 4 before Judge Scott this a.m.

Operator

AMPAD EFFICIENCY® 23-020

IC-36
EXHIBIT
33
HOUSE

IC 37
EXHIBIT
34
HOUSE



NAME Hastings
FIRM
ADD.
GUEST 1
DEPART 9/14
ARRIVE 9/11
ROOM 7022
AGENT TA
TYPE QS
RATE 6/60.00

Sep 11 10 24 PM '81

ON CHECKING OUT MY ACCOUNT WILL BE SETTLED BY:

- ☐ CASH
- ☐ TRAVELER CHECK
- ☐ PERSONAL CHECK
- ☐ AMERICAN EXPRESS
- ☐ DINER'S CLUB
- ☐ CARTE BLANCHE
- ☐ MASTER CHARGE
- ☐ VISA
- ☐ OTHER (SPECIFY)

PLEASE PRINT

SHERATON OPERATING CORPORATION AGENT FOR SHERATON WASHINGTON JOINT VENTURE d/b/a SHERATON WASHINGTON HOTEL

NAME Hastings Three I
STREET 2970 N.W. 55th Ave ☐ HOME ☐ BUSINESS
CITY Fort Lauderdale STATE FL ZIP 33313
COUNTRY
COMPANY

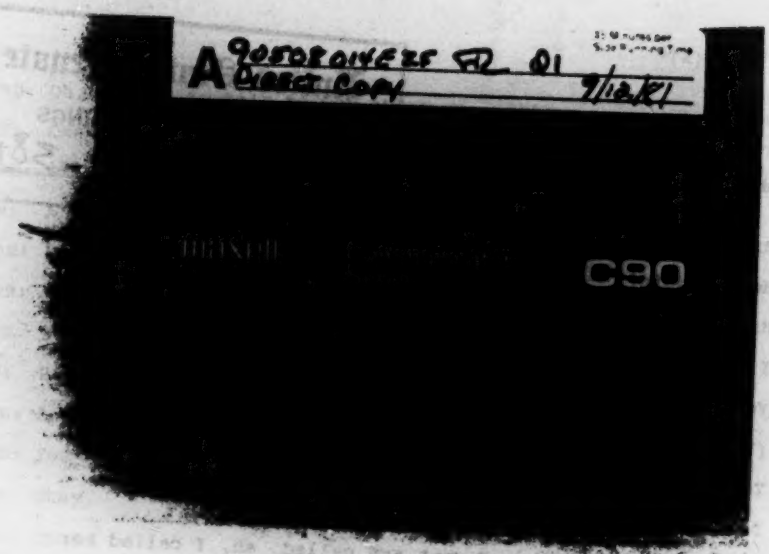
SIGNATURE Wm L. Hastings

12/1/81

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 37

IC 83

EXHIBIT 37 HOUSE



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 38A

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 38B

I.

September 12, 1981 8:05 a.m.

UM: Bill, Frank, how ya doin?

HPR: How ya doin?

WAB: Hi, good to see you.

UM: I said, I said, Jesus Christ, ain't nobody on time.

WAB: You called him?

HPR: (Laughing)

UM: Yea, he wasn't there, you

WAB: I called at 7 and you had gone this morning.

UM: Yea, well, then, then I went and called, ah, I called her twice.

WAB: Yea.

UM: And she said that, ah, you tried, I said well, where's he at? She said restaurant, 7th floor.

WAB: Yea, yea.

UM: Okay, I'll leave you two guys together, you're in good hands.

WAB: Um hum.

HPR: Wanta have

WCD: Square your business up

HPR: a cup of coffee?

WAB: No, let's walk somewhere.

HPR: Okay.

UM: I'll talk to ya, talk to you dudes later.

WAB: You comin back or what? Let me leave this here.

UM: No. I wasn't thinkin on coming back. Do you need me for anything?

EXHIBIT 38b HOUSE

(2)

WAB: Oh, I want to talk to you about some things.

UM: Okey doke. Well, where do you want to see me?

WAB: Why don't you just wait here, we'll get back to you.

UM: Alright.

WAB: Alright. How ya doin? What's your name again?

HPR: Frank Romano. Well, I've had some problems.

WAB: Um hum.

UM: Bill, see you later.

HPR: And I been going for a long . . .

WAB: Yea.

UM: Okay.

WAB: Huh?

HPR: . . . I was going for a long time and everything was going great.

WAB: Yea, I heard.

HPR: And then everything has fuckin' gone wrong and,

WAB: Um hum.

HPR: ah, the real problem is my, my wife has had a breast removed, a cancer and

WAB: Right.

HPR: And Jesus, ah, she just can't stand this, it's really, ah

WAB: Right. Um, I think we can help you.

HPR: I hope so.

WAB: I understand you had a problem, so you're a little leary about it.

HPR: Well, ah, I, I think that, ah, ah, lawyers have been, ah, ah, problems for me, too, you know. Just one of those things that, ah, ah, the breaks have been going against . . .

WAB: Yea.

HPR: . . . everything and, ah, taken some shots and, ah, I've been, ah, misled a few times.

WAB: Yea. OK.

HPR: So that it's, ah, really ah

WAB: Let me say this - I'm gonna make a statement, see what you say about it. I understand you lost some property, too.

HPR: Oh yes.

WAB: Ah, you know what the number is right?

HPR: Ah, I, I've heard it second hand. I haven't heard it first hand.

- Pause -

WAB: That what you hear?

HPR: Yes, one h . . .

WAB: Okay.

HPR: Right.

WAB: Now.

HPR: Right. You know as your, as you age by the way . . .

WAB: Yea.

HPR: . . . the, ah, print can become a smuckin smaller.

WAB: Yea, I write bad anyway.

HPR: (Laughs) Within

WAB: Yea, within ten days the order will be signed.

HPR: Yea. Returning what?

WAB: Substantial . . .

HPR: Yea.

WAB: . . .amount.

HPR: Uh huh.

(4)

WAB: Then the other will follow after that.

HPR: What's the last word? (UI)

WAB: You lost some property, right?

HPR: Yea, oh, yes, right. Ah, he's okay, right . . . ?

WAB: And, ah

HPR: . . . okay, fine. Good.

WAB: And, the other will come once you file a motion for mitigation.

HPR: Okay, alright.

WAB: And that's the long and short of it.

HPR: Okay. That's, that's all, that's all, ah, great.

WAB: Um hum.

HPR: My only problem is, ah, you know, how do I . . .

WAB: Checks and balances?

HPR: . . . how do, how do I, how do I know . . .

WAB: Okay, let me

HPR: . . . that, ah, that . . .

WAB: That it won't be done

HPR: This is it, right?

WAB: Okay.

HPR: Okay, the only

WAB: No, wait a minute, let me just

HPR: Okay.

WAB: You can give it to Billy and what you do, once the first part of it done, then he will give it to me. I don't get nothin until the first part is done. You understand?

HPR: Yea.

(5)

WAB: Then after that, then that will show, that will be a signal showing you that I'm, I know what I'm talkin about, right? Right?

HPR: Yea, within, within ten days.

WAB: Yea.

HPR: Right.

WAB: Okay.

HPR: Ah, now, ah, my real, my, you know, the, the fuckin real problem I have . . .

WAB: Um hum.

HPR: . . . Yeah, is, is not the fuckin time for me, I mean I think I can do this.

WAB: I'm sayin that's both, both of you all.

HPR: Yea.

WAB: It's both.

HPR: And Tom.

WAB: Yea, yea, both.

HPR: Okay, because, ah

WAB: That's, I understand, not one, both.

HPR: Both.

WAB: Right.

HPR: Okay, now, do you want the, ah, how do you want that thing handled with, ah, ah, when this happens, will that trigger the whole thing or do you, or do you want, ah, to, ah, ah, I'd like to be, be in a, be in a position where, ah, there's, ah, something is down and something is at the end because it's, because the, the big problem is the fuckin time, you realize that.

WAB: I realize that.

HPR: Ah.

WAB: What I'm saying is this, I realize you have a problem, so that's why I say give it to him.

HPR: Oh, I got a real fuckin problem.

WAB: Yea, yea.

HPR: Ah, and, ah.

WAB: But give it to him . . .

HPR: Yea.

WAB: . . .within ten days then he will give it to me. I will hold it, till everything is done. But that way, you'll know, I don't want nothin till, so you could see, but I know him well enough, you give it to him, he says he's got it, within ten days the order will come down, then you know that because, don't want you filing a motion and withdrawin your appeal without knowin somethin gonna be done.

HPR: Yea, absolutely.

WAB: Okay.

HPR: Absolutely.

WAB: Right.

HPR: Absolutely.

WAB: Does that, that meet your satisfaction?

HPR: Well, the, ah, the ultimate goal is, ah, you know, just what I want . . .

WAB: Yea.

HPR: . . . that's, that's, ah, fuckin perfect. The only the, the only thing that I'm concerned about is, ah, ah, my, I can, I can handle Tom alright, there's no problem with that.

WAB: Um hum.

HPR: He's got to rely on my judgment.

WAB: Um hum. Um hum.

HPR: Ah, my re, ah, my knowledge of, ah,

WAB: Billy?

HPR: This partner, this, this person here is not, ah, the fuckin, ah, greatest in the world, you know, I don't have that kind of, ah,

(7)

WAB: Well, what do you suggest to do?

HPR: Well, I don't mind, ah, I don't mind handling it, ah, ah, without him, wh,

WAB: Okay.

HPR: Whether, the situation is that, ah, ah, what I'd like to do is have something where I would know for sure there was some kind of a, ah, ah, indication that I know you could do it, ah, say, I understand at one time, ah, when we were discussing this possibility of, a, we thought we had somebody that's gonna

WAB: Yea, I know, we don't really have to talk about it.

HPR: Yea, yea, yea, I betcha, you know, you get fuckin jerked off so many times, but anyway, ah, I think you had made the suggestion that, ah, we name a place . . .

WAB: Okay. No sweat.

HPR: . . . and a time . . .

WAB: Okay.

HPR: . . . and that, ah, that you, the jud, your, ah

WAB: That somebody would have dinner there.

HPR: Yea.

WAB: Okay, that's fine.

HPR: And he could order, ah, you know, something, we'd know that it

WAB: Okay.

HPR: In other words

WAB: Okay

HPR: We'd know that it.

WAB: Okay.

HPR: . . . would happen. The only thing is, now, how do I know, how am I gonna get to, ah, know, ah, ah, you know, when he's available for it, ah, do you want to call me and tell me when?

WAB: No, we can set that up now. (8)

HPR: Okay, okay.

WAB: You name a place now. Wednesday of next week for dinner.

HPR: Wednesday of next week, okay. Okay, ah, how about, ah, ah, Vincent Capra's or, wa, wa, wait, how bout, how bout at the, ah, ah, any fuckin place I don't care. We can name some spot like, ah, Wednesday of next week, ah, there's a, ah, Chateau Gourmet that's right down.

WAB: Is this a clean joint, I don't want no place, you know.

HPR: Oh no, oh, no, no, no, no, no, no, no, no.

WAB: Name one of the better places in town you know.

HPR: Okay, there, your, your prob, the problem is there's so many fuckin places are closed in the off season, I'm tryin to make sure I don't give you a fuckin place that's closed on Wednesday, ah, there's a place, ah

WAB: What, what's, what's, what's one of the better, ah, hotels with a restaurant in it.

HPR: Ah, you can, ah, go to the, well, Fontainebleau or the, ah, Eden Roc or, er, ah, you can go to, ah, the, ah, how bout the Forge, the Forge Restaurant, ah, that's a little shady, ah, you stay out of there.

WAB: Yea.

HPR: Alright, the, ah, we can take a, ah, shot at, ah, um, ah, the, alright the main dining room in the, ah, Fontainebleau.

WAB: Okay, fine.

HPR: And when, that'd be Wednesday evening and would be, ah, let's say 8:00 or something like that?

WAB: 8:00.

HPR: Okay?

WAB: Um hum.

HPR: And, ah, why don't, why don't I give you a, ah, a number where you can reach me?

WAB: No.

HPR: Okay, okay, fine, fine, fine, okay.

WAB: I may not.

HPR: Alright.

WAB: That's, see

HPR: No, no, okay, okay.

WAB: Ah, okay, now

HPR: Well, I'm just sayin if somethin goes wrong...

WAB: He not gonna be around here.

HPR: ...oh, the other guy, okay, alright.

WAB: Now, ah, no, well, I just don't phones and stuff, you know.

HPR: Yea, I don't, ah, fuck, right.

WAB: Um.

HPR: I don't blame ya.

WAB: When do you want to see me after that's done?

HPR: I could see you, ah, probably, ah, Thursday, then the next day I'll, I'll

WAB: No, you can't do that, I'll be at the fight out in Vegas.

HPR: Oh yea. Okay, yea, you name it then, when's the, well, this is, this is going to, um, indicate to me that the rest is, is going to happen.

WAB: Right.

HPR: So that when the...

WAB: That's when I see you

HPR: ...when the, when the ten day is by, is gone, then I'm gonna see you.

WAB: No, see me up front, look, see that's why I was, you gotta

HPR: Put something up front.

WAB: Yea.

(10)

HPR: Right.

WAB: Right.

HPR: I will.

WAB: Yea. That's why I said when do you want to see me.

HPR: Okay, you tell me.

WAB: Ah, what about next Saturday?

HPR: Next Saturday, alright.

WAB: Okay.

HPR: Where?

WAB: Where would you suggest?

HPR: Well, make it uncomplicated, right here is alright with me.

WAB: Okay.

HPR: You know, it's just a fuckin, this is alright.

WAB: Okay.

HPR: Next Saturday, okay, and ah, then we, we should pretty near schedule anyway, something should happen within the, the, few days after that anyway.

WAB: Yea, yea.

HPR: And then, ah, the rest will follow. Now the, ah, okay, very good.

WAB: When you put (UI)

HPR: I just fuckin hope that this is, ah

WAB: Oh no. That's 100 percent, 100 percent, 100 percent.

HPR: Okay, okay.

WAB: What time?

HPR: Well, you're the person that has to travel more than me, you gi, you give me a time. I'll let you set it.

WAB: That's, at, 8:00 Wednesday night, 8:00.

(11)

HPR: 8:00, Wednesday.

WAB: Um hum.

HPR: At the, ah

WAB: Um hum, um hum. I know.

HPR: Right.

WAB: Right.

HPR: Okay.

WAB: Ah, I'll meet here 10:00.

HPR: AM?

WAB: Yea, here.

HPR: Okay, okay, very good.

WAB: Got to leave.

HPR: Okay.

* * *

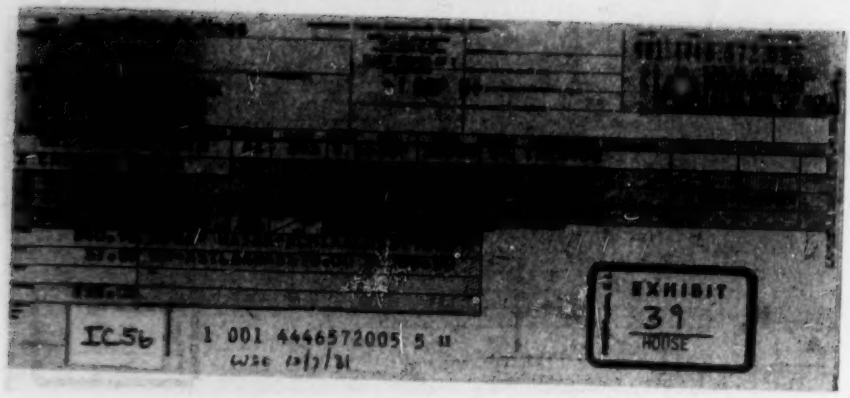

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EXHIBIT
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HOUSE

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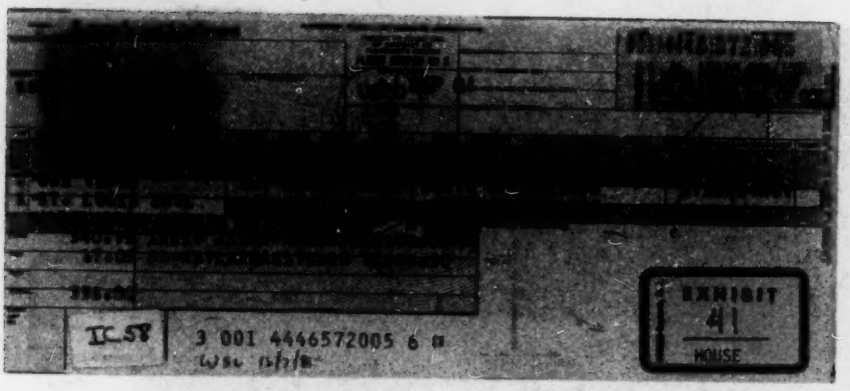
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EXHIBIT
41
HOUSE

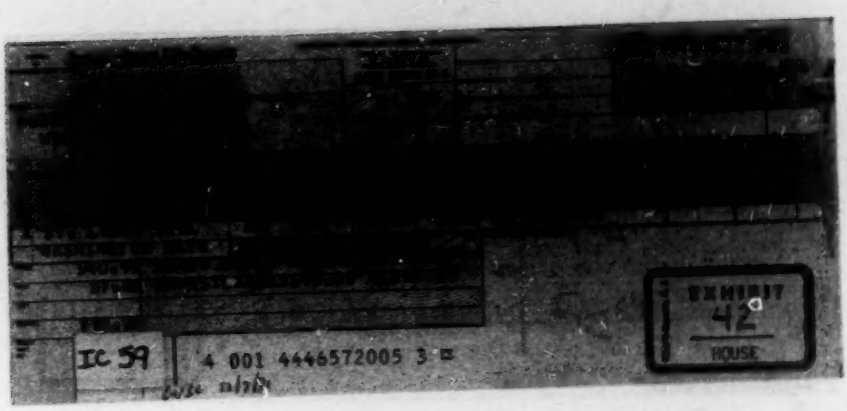
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EXHIBIT
42
HOUSE

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 43A

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 438

II.

September 19, 1981 9:47 a.m.

HPR: Hi. How'd ya like that fight?

WAB: Oh, it was nice. What's happening?

HPR: I thought Tommy Hearns coulda lasted.

WAB: Yea.

HPR: From the video, I don't know in person.

WAB: No, what happened was, a young fighter, didn't pace himself. It was very hot out, ah, humidity. I found out one thing - he's a better fighter than Ray.

HPR: Yea. He's a pretty good boxer, pretty good boxer.

WAB: Yea.

HPR: But the other fellow had, ah

WAB: Well, he learned from Duran's fight.

HPR: Yea, yea. But, ah, not bad fight, not a bad fight. Ah, you did what you'd said you'd do?

WAB: Um hum.

HPR: Ah, your man arrived and in fact, he arrived a little early and, ah, you said you could do that and that's, ah, your end of the situation. Ah, now, ah, I arrived a little early.

WAB: Um hum.

HPR: And I was a little leery of, ah, elevators.

WAB: Yea.

HPR: Ah, so that, ah, ah, you can have a choice, you can either come downstairs with me or I can come back, ah

WAB: What is it in?

HPR: Ah, it's in, it's just in an envelope. I'm gonna put it inside the, the newspaper and in, ah, give it to you. Do you want

WAB: How, how ah, where you want to do it?

EXHIBIT 436 HOUSE

HPR: Well, I, I stuck it in a, in a locker downstairs so that I can pick it up and then, anyway why don't we, before we go any further, ah, ah, the last time we, we talked, my understanding was that the, ah, some property was going to be released.

WAB: Within ten days.

HPR: Within ten days of the last time we talked, right?

WAB: No, within ten days from today.

HPR: Oh, today?

WAB: Yea. We're not talkin about that many different days.

HPR: Oh.

WAB: (Laughs)

HPR: Yea, right, right, right. Okay, then, ah

WAB: Once you do that then file a motion for mitigation of sentence, but don't do that until that happens.

HPR: Right, right, right, right, right. In a, as a matter of fact, ah, the, ah, I'm not havin any, ah, discussions with my, ah, attorney over any of this, ah, bullshit except the, ah, except the, to tell him, ah

WAB: Just tell him you're tired of the appeal, just see if the man will reduce the sentence.

HPR: I see.

WAB: (UI) and that will take ya.

HPR: Okay.

WAB: UM hum.

HPR: Okay.

WAB: And don't talk about it to nobody about you.

HPR: Right, right, I, I, I, I, I realize that. I've got another, ah, got another, ah, you know, ah, reason why not to talk to anyone anyway because, ah...

WAB: Give you a (UI)

(3)

HPR: ...I've got a, I've got a lot of pressure on, ah, on, ah, need for people that, ah, aren't interested in, ah, in money and I'm not, ah,

WAB: Yea.

HPR: I've gotta put myself in a position where I, ah, come up against the tough times.

WAB: Okay.

HPR: You gonna come with me?

WAB: Well, you go. I'll meet you downstairs.

HPR: Okay, I'm gonna, I'm gonna go down. I'm gonna go downstairs and I gonna, ah, go, go up to the, ah, area and then walk back, I'll see you in the lobby then.

WAB: Okay.

HPR: Okay.

* *

HPR: I'm now going down the elevator.

* *

HPR: It's gonna happen right here.

DRS: Okay

* *

HPR: It's gonna happen right in the lobby, right there. Ahh.

* *

HPR: It looks like it's one minute till ten and I'm gonna remove the envelope from the locker.

WJM: Does he want you to bring it up to him?

HPR: No, he's gonna meet me downstairs in the the, ah, lobby downstairs.

WJM: Okay.

HPR: Now, I'm gonna take this right here and then I'm gonna put it inside, in the newspaper.

(4)

WJM: Right, okay. Give me like a minute and a half count, before you head back.

* *

(Note: HPR physically observed putting money on arm of sofa in hotel lobby.)

HPR: Hi, how are you? Good, good. Aah, not bad, not bad, I enjoyed that fight, that was some fight.

WAB: Yea, yea, it was excellent.

HPR: It really was. Um, ah, there's a, um, ah, there's 25, ah, right there and that's going to be, ah, my indication that, ah, everything is fine, ah, I feel that when the, when the next transaction takes place in ten day, I'll take another 25 and then the remaining hundred on the, ah, on the culmination.

WAB: That's different than what we had said.

HPR: What we had said is, ah, is I give you, ah, up front money for, ah, this thing here, you know, it

WAB: What?

HPR: That's my understanding, what is, what is, what do you want?

WAB: My understanding was, I thought you put up some big escrow.

HPR: Yea, that would be fa, that would be fine if I, if we had ah, one person that we, ah had mutual confidence in.

WAB: You don't have confidence in that fellow?

HPR: Well, I haven't had that, ah, kind of experience, you know, it's just that, ah, ah, I am, well, contacts are what makes confidence.

WAB: Right. I understand.

HPR: And, ah, I have more confidence in you today than I had the last time that I met you.

WAB: Um hum.

HPR: You gotta believe that, ah, you know, you bring confidence when you wanta

WAB: You should have.

HPR: (UI)

WAB: I understood that.

HPR: So that it, ah, there's there's no way, ah, as a matter of fact, ah, it, ah, if you want to, ah, you know my brother's had, ah, history of heart problems, ah, you can have one of us, ah, he could, ah, he can come up ill at the last moment and, and they can have my sentence mitigated and then, ah, payments are made and then we can do the other.

WAB: (UI) that's two. No No No, that's to, That just to compensate 'cause the other guys gotta be having twenty.

HPR: Yea, right.

WAB: Ah, well, okay, do it this way. The problem is I don't want to keep coming back and forth, down.

HPR: Oh, I can understand that, you know.

WAB: Secondly.

HPR: You want me to go someplace else, you know?

WAB: No, no.

HPR: But this is very important to me.

WAB: I know, well, I can understand your position at this point.

HPR: Alright.

WAB: What about as soon as the other is done. Get it all up as soon as he does it.

HPR: Alright, alright, alright I think that, that, ah, um, alright that's, okay, so the, ah, the balance, okay, now, ah, do you have any idea on the, on the timing so that you figure out, ah, when you want this thing to happen, ah, because, ah, and how do you, and how do you want this, that's all in hundreds.

WAB: That's fine.

HPR: Okay.

WAB: What's the date?

HPR: The 19th.

(UI--background noise)

(6)

WAB: What about October the third?

HPR: October the third, okay, what day of the week is that?

WAB: It's a Saturday.

HPR: Saturday, alright, fine, October the third, and by that time there would have been the . . .

WAB: Um hum.

HPR: . . . the transaction, but, ah, but, ah, okay, like I said, ah, this will be done strictly on, in same place?

WAB: Do you want to change it?

HPR: I don't care, I, I don't care.

WAB: Okay, ah, same place.

HPR: It's less confusing, I think

WAB: Yea.

HPR: Yea Okay, ah, same time then?

WAB: Fine, fine.

HPR: Okay, now, um, I will know by then if this thing has happened?

WAB: Sure. Right

HPR: Okay, and as I said, ah, my, ah, I don't have to ask my attorney to do anything on this?

WAB: No.

HPR: This is done, this is strictly

WAB: Just strictly (UI)

HPR: Okay, okay. October the third so that'll be done by then?

WAB: Um hum.

HPR: Good. Do you think there'll be a rematch with, ah, Hearns?

WAB: Oh sure, sure, too much money involved.

(7)

HPR: Yea, yea, they actually put on a good show, I was, ah, I thought, ah, Hearns looked like the boxer and the other guy looked like the, the slugger and (UI) gets it in the end. But Sugar Ray's eye was almost completely closed.

WAB: Did a job on it.

HPR: Umm.

WAB: Did a job on it. Did I give you one of my cards last time?

HPR: No.

WAB: I thought I had some one me. Wait for me, I'm going upstairs, I gotta get my bag and stuff, I'll be right back.

(Note: WAB physically observed picking up newspaper and putting it inside jacket.)

HPR: Sure, fine, fine, alright.

WAB: Write your telephone number down for me.

HPR: Okay.

WAB: Did I give your pen back?

HPR: No, you still got my pen.

WAB: (Laughs) okay.

HPR: Okay. He's going upstairs in the, ah, elevator.

JS: The job get done?

HPR: He's coming back here.

JS: Okay, I'll stay on the phone.

* * * * * * * * * * * * * * * * * *

HPR: 10:10

* * * * * * * * * * * * * * * * * *

HPR: Alright?

WAB: Yea. Did you write that down?

HPR: Right here.

WAB: Okay, alright.

(8)

HPR: Okay, Bill, October third.

WAB: Okay, good enough.

HPR: Right.

* * * * * * * * * * * * * * * * * *

HPR: Want me go to the car?

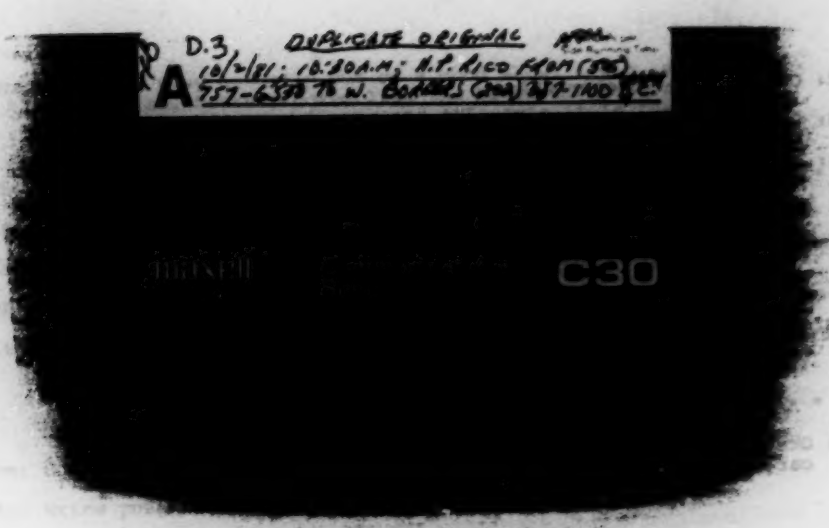
AA: Huh?

HPR: Want me go to the car?

AA: Yea.

* * * * * * * * * * * * * * * * * *

HPR: Okay, ah, it's ah, 10:18, and I'm going off the air in my car.



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 44A

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 44B

Date: ~~10/2/01~~
Time: 10:20 AM
Location of Interception: H. Paul Rico's Residence
Miami Shores, Florida
Type of Interception: Consensually Monitored
(305) 757-6530 to
(202) 387-1100

Participants: H. Paul Rico (HPR)
Unidentified Female (UF)

Administrative: Unintelligible (UI)

UF: Law Office.

HPR: Attorney Borders, please.

UF: He's not in. (UI) there a message?

HPR: Ah, could I speak to his secretary?

UF: This is she.

HPR: Dear, ah, this is Frank from Florida. And it's important that I talk to him. And ah, you, when do you expect him back?

UF: I don't know what time he'll be in the office, I expect him in later this evening, he may come in before then.

HPR: Alright...

UF: Do you want to leave a number?

HPR: ...I'm gonna, I'm gonna call back at ah, 12:30, and ah, you can tell him that I called. And that it's...

UF: It's just Frank?

HPR: Frank. Right. From ah, Florida, and I, I have something that's important and I wanted to talk to him.

UF: Do you wanna leave your number?

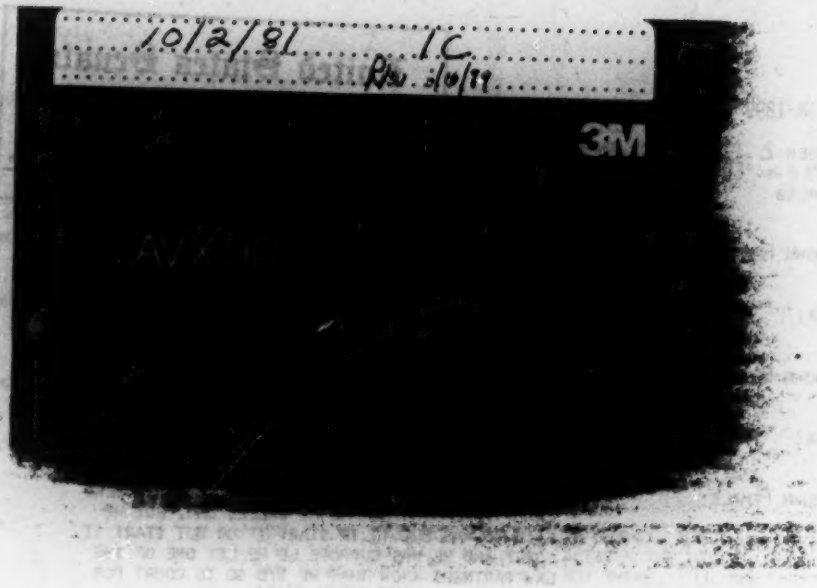
EXHIBIT 44B HOUSE

IC 172-BC

HPR: I, I'm not ah, in a position to leave a number, it would be better off if I called you back at 12:30, and ah, at that time if, if he wanted to give me a number, I, whatever, I'll call you back at 12:30.

UF: Alright. Thank you.

HPR: Okay. Bye.



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 45A

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 46B

MFO 58-1899

OCTOBER 2, 1981
12:29 P.M. EDT
INCOMING

UNKNOWN FEMALE: (INAUDIBLE)

FRANK: THIS IS FRANK. IS UH BOB (INAUDIBLE)...

UNKNOWN FEMALE: OKAY. YOU'RE CALLING FROM FLORIDA.

FRANK: THAT'S RIGHT.

UNKNOWN FEMALE: YEAH. MR. BORDERS IS IN A TRIAL. HE WAS HERE EARLY THIS MORNING AND HE CALLED UHM, BUT HE SAID HE WAS DUE TO TR START IT OR NOT START IT TODAY AND HE WAS SUPPOSE LE HE LET ONE OF THE LAW PARTNERS KNOW THAT HE DID GO TO COURT FOR THE TRIAL...

FRANK: WERE YOU ABLE...

UNKNOWN FEMALE: ...AND I HAVEN'T...

FRANK: ...WERE YOU ABLE TO TELL HIM I CALLED?

UNKNOWN FEMALE: NO. I HAVE NOT SPOKEN WITH HIM DIRECTLY. I JUST GOT THAT BY WAY OF ONE OF HIS LAW PARTNERS.

FRANK: WELL, IT'S VERY IMPORTANT AND I I KNOW IT'S IMPORTANT TO HIM TOO, SO THAT UH I'LL I'LL HAVE TO CALL BACK WOULD GIVE ME A NU (VOICE FADED) ANY IDEA? LIKE...

UNKNOWN FEMALE: WELL, HE DO HAVE APPOINTMENTS SCHEDULED THIS EVENING. I SUGGEST THAT YOU KNOW THAT YOU CALL MAYBE ABOUT 4.

FRANK: WELL...

EXHIBIT 45b HOUSE

58-1899-S-65-24

UNKNOWN FEMALE: YOU KNOW, IT'S HARD TO SAY EXACTLY WHEN HE'S GONNA TO BE HERE SIR. I I UHM CAUSE BILL YOU KNOW I CAN'T I DON'T EVEN KNOW WHAT COURTROOM HE'S IN OR ANYTHING. I KNOW WHAT MATTER HE'S ON, AND I COULD POSSIBLY...

FRANK: WELL...

UNKNOWN FEMALE: ...TRY TO TRACK HIM DOWN AND GET A MESSAGE TO THE CLERK.

FRANK: SURE.

UNKNOWN FEMALE: BUT THAT'S THE THAT'S THE ONLY POSSIBLE THING THAT I CAN DO.

FRANK: WELL, I'LL I'LL KEEP CALLING HIM ANYWAY, BUT I'LL I'LL I'LL CALL AGAIN UH, BETWEEN TWO THIRTY AND THREE AND THEN UH IF HE'S NOT THERE, I'LL TRY AGAIN AFTER FOUR.

UNKNOWN FEMALE: OKAY.

FRANK: OKAY?

UNKNOWN FEKALE: ALRIGHT

FRANK: BUT IF YOU CAN UH IF HE CALLS IN, YOU TELL HIM...

UNKNOWN FEMALE: I'LL DEFINATELY LET HIM KNOW.

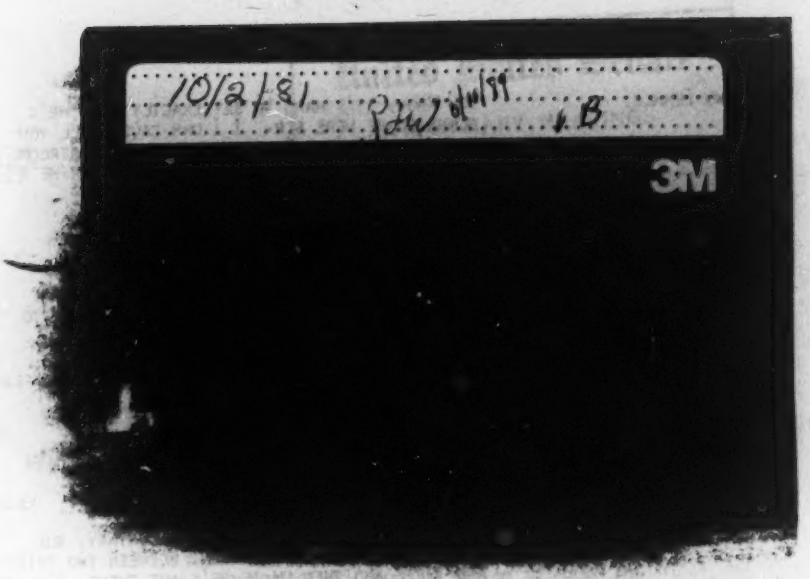
FRANK: ... BECAUSE IT IS IMPORTANT.

UNKNOWN FEMALE: OKAY.

FRANK: THANK YOU.

UNKNOWN FEMALE: MMM MMM.

(CALL TERMINATED)



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 46A

WFO 58-1899

OCTOBE 2, 1981
2:20 P.M. EDT
INCOMING

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 46B

BOB: HELLO.

BILL: HEY, BOB.

BOB: HEY, HOW YA DOING BILL.

BILL: OKAY. IS UH, CINDY STILL THERE?

BOB: UH, SHE STEPPED OUT TO GET A SANDWICH.

BILL: OKAY. DID UH, SOMEONE CALL ME FROM FLORIDA?

BOB: UH, NO. FRANK HASN'T CALLED YET.

BILL: OKAY. I'M GONNA UH, I'M STILL IN COURT. I'M GONNA RUN OUT TO A PAY PHONE AND CALL YOU BACK AND GIVE YOU A NUMBER WHERE YOU CAN CALL ME. OKAY.

BOB: OKAY. THEN.

BILL: (INAUDIBLE)

BOB: I'M GONNA I I GOTTA TAKE THE MATTERS DOWN TO THE COURT TO BE FILED MYSELF, SO UH, YOU KNOW I JUST, WE CAN JUST GET TOGETHER SOME OTHER TIME AND GO SEE THAT OTHER WOMAN.

BILL: OKAY. WHAT TIME YOU GONNA DO THAT?

BOB: RIGHT NOW.

EXHIBIT 46b HOUSE
58-1899 Sub-Q3

BILL: HUH?

BOB: I MEAN, I NEED, NOW.

BILL: OKAY. CAUSE (INAUDIBLE) I CAN COME BACK IN. YOU CAN COME DOWN HERE AND FILE THE PAPERS AND THEN WE'LL GO OVER IT THERE. BUT, WE CAN DO IT SOME OTHER TIME.

BOB: UH, OKAY. WELL, YOU GONNA CALL BACK.

BILL: YEAH.

BOB: ALRIGHT THEN.

BILL: BYE.

BOB: BYE.

(CALL TERMINATED)

47A

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 47A

THE FOLLOWING CONVERSATION OCCURRED ON OCTOBER 2, 1981, AT 2:49 P.M., AS AN INCOMING CALL OVER 387-1101, FROM WILLIAM BORDERS TO HIS RECEPTIONIST.

UNKNOWN FEMALE: LAW OFFICE.

BORDERS: HEY, DID FRANK CALL?

UNKNOWN FEMALE: NO, HE HASN'T CALLED YET.

BORDERS: OKAY. I'M AT UH DAN SILVERMAN'S OFFICE. 659-4030.

UNKNOWN FEMALE: OKAY.

BORDERS: AND, IF YOU PUT HIM ON IF HE CALLS, PUT HIM ON HOLD AND CALL ME...

UNKNOWN FEMALE: MMM MMM.

BORDERS: ...CAUSE I'M GOING DOWNSTAIRS AND HAVE A SANDWICH AND IF THEY COME GET ME A MU AND LEAVE A NUMBER, AND I'LL CALL HIM BACK IN TEN MINUTES.

UNKNOWN FEMALE: OKAY.

BORDERS: ALRIGHT.

UNKNOWN FEMALE: MMM MMM.

BORDERS: BYE.

(CALL TERMINATED)

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 47

EXHIBIT 47
HOUSE
SB 1959-Sub 22

48A

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 48A

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 48B

WFO 58-1899

OCTOBER 2, 1981
3:01 P.M. EDT
INCOMING -

UNKNOWN FEMALE: LAW OFFICE. ONE MOMENT.

(PLACED ON HOLD)

UNKNOWN FEMALE: MAY I HELP YOU.

FRANK: YES, WILLIAM BORDERS (INAUDIBLE).

UNKNOWN FEMALE: HE'S NOT IN. WHO'S CALLING?

FRANK: FRANK.

UNKNOWN FEMALE: LISTEN FRANK. OKAY. HOLD ON JUST A MINUTE. I'M GONNA TRY TO REACH HIM. HE'S AT A AT ANOTHER OFFICE, BUT UH, I TOLD HIM YOU'D BE CALLING BACK. HOLD ON JUST A MINUTE.

FRANK: ALRIGHT.

(PLACED ON HOLD)

UNKNOWN FEMALE: HELLO.

FRANK: YES.

UNKNOWN FEMALE: OKAY. HE WENT TO GET A SANDWICH AND THEY'RE GOING TO GET HIM. CAN YOU CALL BACK IN 10 MINUTES AND I CAN HOOK YOU UP.

FRANK: ALRIGHT. ALRIGHT.

UNKNOWN FEMALE: OKAY.

EXHIBIT 48b HOUSE

58-1899-SUB. 01

FRANK: ALRIGHT.

UNKNOWN FEMALE: ALRIGHT.

FRANK: 10 MINUTES AT THIS PHONE NUMBER.

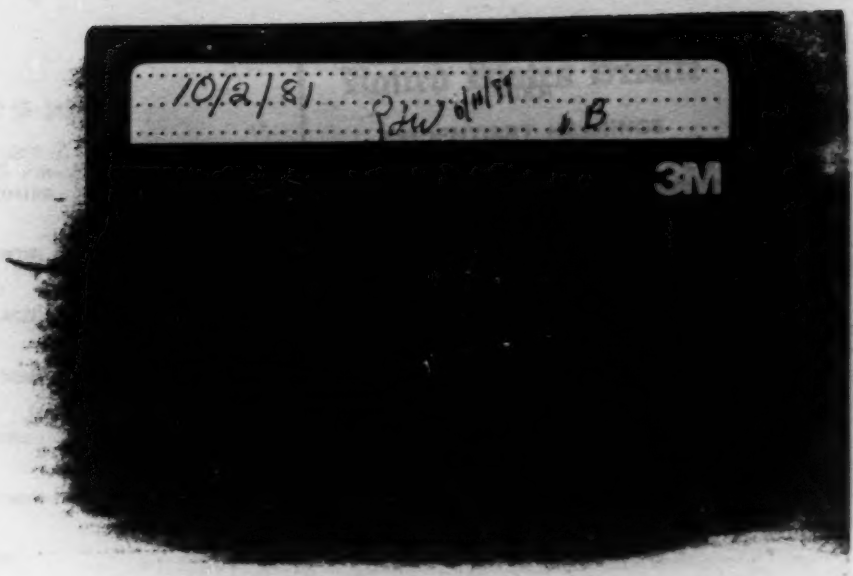
UNKNOWN FEMALE: YES.

FRANK: ALRIGHT.

UNKNOWN FEMALE: OKAY.

FRANK: BYE.

(CALL TERMINATED)



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 49A

THE FOLLOWING CONVERSATION WAS RECORDED ON OCTOBER 2, 1981, AT 3:02 P.M. IT WAS AN OUTGOING CALL PLACED OVER 387-1100 BY BORDERS' RECEPTIONIST TO BORDERS AT SILVERMAN'S OFFICE.

UNKNOWN FEMALE #1: NATIONAL ENVIRONMENTAL CONTROL.

UNKNOWN FEMALE #2: YES. IS MR. SILVERMAN THERE? I'M TRYING TO REACH BILL BORDERS.

UNKNOWN FEMALE #1: (INAUDIBLE)

UNKNOWN FEMALE #2: MMM MMM.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 49B

(PLACED ON HOLD)

(ANOTHER TELEPHONE LINE RINGS)

UNKNOWN FEMALE #2: HELLO. MAY I HELP YOU?

BORDERS: HELLO. HELLO.

UNKNOWN FEMALE #2: YES. BILL, UH, OKAY, I T I TOLD HIM TO CALL BACK IN TEN MINUTES...

BORDERS: MMM.

UNKNOWN FEMALE #2: ...CAUSE UH UHM CAN YOU CALL ME BACK IN EXACTLY TEN MINUTES?

BORDERS: WHAT YOU CAN DO IS CALL HOOK US UP HERE, YOU KNOW, YOU CALL ME...

UNKNOWN FEMALE #2: YEAH. THAT'S WHAT I WAS GONNA DO, BUT I THOUGHT YOU SAID YOU WANTED TO GET A SANDWICH.

BORDERS: WELL, WE NEVER LEFT.

UNKNOWN FEMALE #2: OH.

EXHIBIT 49b HOUSE
58-1894-S-Att.7.20

BORDERS: So.

UNKNOWN FEMALE #2: WELL...

BORDERS: OKAY.

UNKNOWN FEMALE #2: ...UHM, UH, WHEN HE CALLS BACK, I'LL JUST HOOK YOU UP HERE.

BORDERS: OKAY.

UNKNOWN FEMALE #2: THAT'S WHAT I WAS GONNA DO, BUT UH...

BORDERS: OKAY.

UNKNOWN FEMALE #2: ...I THOUGHT YOU WOULD PROBABLY BE GONE...

BORDERS: OKAY.

UNKNOWN FEMALE #2: ...FOR HIM YOU KNOW HOLD SO LONG AND HE'S GONNA CALL ME BACK IN TEN MINUTES. YEAH, THIS IS BILL.

ROBERT: (INAUDIBLE)

UNKNOWN FEMALE #2: UHM, ROBERT SAID HE'S HEADED DOWN TO THE COURTHOUSE.

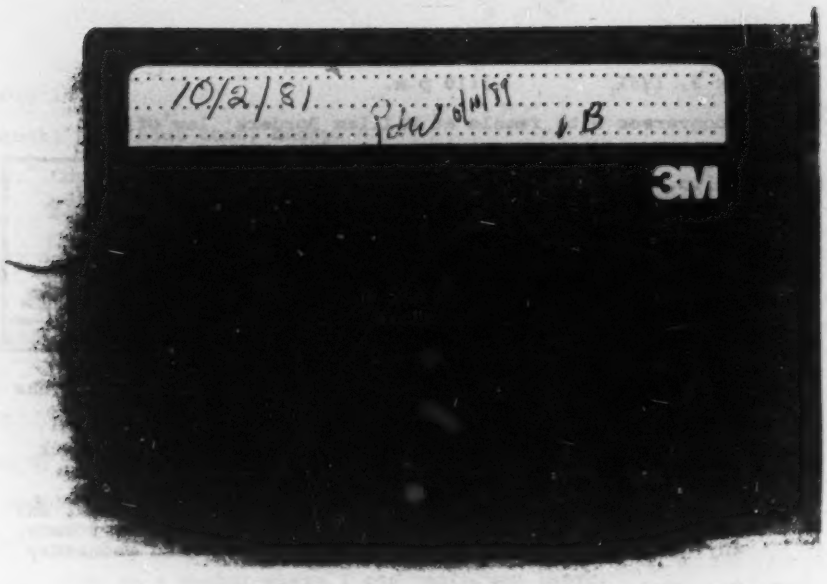
BORDERS: OKAY.

UNKNOWN FEMALE: ALRIGHT.

BORDERS: BYE.

UNKNOWN FEMALE: (TO ROBERT) HE SAID OKAY. HE SAID WAIT A MINUTE. UH, I HAVE A NU...

(CALL TERMINATED)



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 50A

III.

October 2, 1981 3:10 p.m.

(Rico converses with female at William Borders' law office).

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 502

WAB: Hello.

HPR: Hello, Bill.

WAB: Yeah.

HPR: It's Frank.

WAB: Yeah.

HPR: What's happened? Ya know, the ah, the ah, the, nothing has happened here.

WAB: I think it has. Your man should've told you. I'll check into it.

HPR: I, I, ah, talked to my man and, and, ah, asked him what was new and he said nothing, ya know, really. So I don't know, ah, when this suppose, supposed to have happened Wednesday.

WAB: Yea. Okay.

HPR: Yet nothing has happened.

WAB: Okay. Let me do this. Let's cancel tomorrow. Okay.

HPR: Alright.

WAB: And let me get back on that.

HPR: Can, could you give me any idea, ah, what, uh, what the hell is, ah, gone wrong?

WAB: It's supposed to, ah, been done. That's why I, I don't, you understand what I'm saying?

HPR: Yea.

WAB: And, I, I can't, the only thing I can say is, a lack of communication in terms of through the mail. You follow me?

HPR: I see.

WAB: Yea. Uh. . .

HPR: We can always blame those people. They screw up everything.

EXHIBIT 506 HOUSE

(Both laugh)

WAB: (Laugh) How 'bout that, buddy.

HPR: Yea. Could you, ah, alright, ah. . .

WAB: Ah...

HPR: What do you want me call me and let me know because I've got, ah, you know, I've got, ah. . .

WAB: I understand.

HPR: . . . some problems involved in this.

WAB: Huh?

HPR: And my brother, you know.

WAB: I understand.

HPR: Yea.

WAB: Look, give me a number where I can reach you later.

HPR: Ah, you got that number, 922-3319.

WAB: 3319.

HPR: Yea.

WAB: Call you tomorrow night.

HPR: Tomorrow night?

WAB: Yea.

HPR: You can, you can't call me tonight?

WAB: I may or may not, because I don't know if I can find out, be, because of the time. You understand what I'm saying?

HPR: I see.

WAB: Yea, and I'm just so, to make sure.

HPR: Well, I, ah, alright. I got something lined up, ah, tomorrow night, but, ah. . . how 'bout if I called you first thing Monday morning?

WAB: Good enough.

HPR: Oh, what time's a good time to catch you in the office?

WAB: Uh, why. . .

HPR: Ya wanna give me another number. Whatever you want to do.

WAB: Okay. Tell you what. Let me give you my home number.

HPR: Your home phone number?

WAB: Yea. 398

HPR: 398.

WAB: Yea. 6321.

HPR: 6321.

WAB: Yea.

HPR: Okay.

WAB: Call me Sunday.

HPR: 698. . .

WAB: No. . .

HPR: Ah 39 . . . 398. . .

WAB: Yea.

HPR: . . . 6321.

WAB: Yea.

HPR: And it's the same area code.

WAB: Yea.

HPR: And I'll call you Sunday morning.

WAB: Make it about 9:30.

HPR: 9:30.

WAB: Yea.

(4)

HPR: Okay.

WAB: Alright, buddy.

HPR: Okay, bye.

WAB: Bye.

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 51A

THE FOLLOWING IS A CONVERSATION WHICH OCCURRED ON OCTOBER 2, 1981, AT 4:50 P.M. BETWEEN CINDY ROGERS AND AN UNIDENTIFIED MALE ON TELEPHONE LINE 387-1104:

UNKNOWN MALE: HASTINGS' CHAMBERS.

ROGERS: YES. IS JUDGE HASTINGS AVAILABLE?

UNKNOWN MALE: NO. HE HAS LEFT.

ROGERS: FOR THE DAY.

UNKNOWN MALE: YES.

ROGERS: ALRIGHT. THANK YOU.

UNKNOWN MALE: YOU'RE VERY WELCOME.

ROGERS: MMM MMM.

(CALL TERMINATED)

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 51B

EXHIBIT
51b
HOUSE
55-RRP-Sub C-18

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 62A

IV.

October 4, 1981 9:38 a.m.

WAB: Hello.

HPR: Hello, Bill. Frank.

WAB: Hey, buddy. How ya don'? Mom, I have the phone. . . How ya doin'?

HPR: Not bad.

WAB: Okay. Look, I don't have an answer for you. Can you call me at 4:30 at the office tomorrow evening?

HPR: Alright. Alright. I can call you. At 4:30 tomorrow evening?

WAB: Yes. Okay.

HPR: You have no idea of, ah. . .

WAB: I have not, ah, gotten an answer, cause I haven't been able to talk to anybody.

HPR: I see.

WAB: Yes.

HPR: Okay. Then.

WAB: Alright.

HPR: If I call you at, ah, if I call you at 4:30 at your office. . .

WAB: Yes. Okay.

HPR: Okay.

WAB: Right, buddy.

HPR: Okay. Bye.

WAB: Bye.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 52B

EXHIBIT 52b HOUSE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 53A

D. 12

THE FOLLOWING IS A CONVERSATION WHICH OCCURRED ON OCTOBER 5, 1981, AT 4:22 P.M. BETWEEN H. PAUL RICO (POSING AS FRANK ROMANO) AND WILLIAM BORDERS ON TELEPHONE LINE 387-1101:

UNKNOWN FEMALE: OFFICE.

FRANK: YEAH. WILLIAM BORDERS PLEASE.

UNKNOWN FEMALE: HE'S NOT IN YET. IS THERE A MESSAGE?

FRANK: UH, THIS IS FRANK. I WAS SUPPOSE TO CALL HIM, BUT UH THIS TIME AND DO YOU EXPECT HIM IN?

UNKNOWN FEMALE: YEAH. ANY MINUTE.

FRANK: OKAY. UHM...

UNKNOWN FEMALE: WAIT A MIN WAIT A MINUTE. SOMEONE IS COMING IN THE BACK DOOR NOW. HOLD ON A SECOND.

FRANK: OKAY.

UNKNOWN FEMALE: BILL.

BILL: YEAH.

UNKNOWN FEMALE: PICK UP ON UH 1100. LONG DISTANCE. HOLD ON A SECOND. HE'S COMING IN THE DOOR.

FRANK: OKAY.

(PLACED ON HOLD)

BILL: HELLO.

FRANK: YES.

BILL: HEY.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 536

EXHIBIT 536 HOUSE

88-199-Sub 7-16

FRANK: FRANK.

BILL: YOU TIMED THAT AT TWO MINUTES EARLY. DIDN'T YA?

FRANK: AH, I GUESS SO.

BILL: (LAUGH) I WAS JUST WALKING IN THE DOOR.

FRANK: WELL, YOU GOTTA BELIEVE I'M QUITE ANXIOUS.

BILL: YEAH. OKAY. I UNDERSTAND. LOOK, I CHECKED ON THAT MATTER...

FRANK: YEAH.

BILL: ...AND IT WAS IN THE MAILS. IT WAS IT HADN'T GONE OUT YET.

FRANK: OH, JESUS.

BILL: NO. WELL...

FRANK: YEAH.

BILL: ...IT DID BUT, THAT'S BEEN TAKEN CARE OF. OKAY.

FRANK: WELL, IT WOULD OF WENT OUT UH THEN THEN IT WENT OUT THIS UH THE TODAY THEN PROBABLY. UH?

BILL: IT WAS PROBABLY TODAY OR FIRST THING IN THE MORNING. I'M JUST I HAD I I WANNA GIVE IT A LITTLE TIME. YOU UNDERSTAND WHAT I'M SAYING.

FRANK: YEAH.

BILL: YEAH.

FRANK: RIGHT.

BILL: OKAY.

FRANK: ANYWAY I COULD UH PICK UP A COPY OF THAT AT UH THE OFFICE OR SOMETHING?

BILL: AH...

FRANK: I MEAN COULD I SEND SOMEONE OVER AND JUST...

BILL: NAW NAW. NAW DON'T DO THAT. DON'T DO THAT.

FRANK: DON'T DO THAT. UH.

BILL: YEAH. YOU UNDERSTAND WHAT I'M SAYING.

FRANK: YEAH. ALRIGHT. OKAY.

BILL: YEAH. YEAH.

FRANK: THEN UH I JUST HAVE TO UH...

BILL: YOUR FRIEND SHOULD TELL YOU SOMETHING. WHERE YOU WENT YOU SAY YOU WENT BEFORE.

FRANK: YEAH. RIGHT.

BILL: YEAH. HE SHOULD BE CALLING YOU A COUPLE DAYS.

FRANK: OKAY.

BILL: OKAY.

FRANK: THEN WHEN I GET IT UH...

BILL: CALL ME.

FRANK: I'LL GIVE YOU A CALL THEN WE'LL GET THAT UH...

BILL: TOGETHER.

FRANK: ...TOGETHER. OKAY. CAN YOU UH TENITIVELY COULD I SET THE THING UP IF I GET UP ON THIS THING WEDNESDAY, COULD YOU COME DOWN UH SAY THURSDAY NIGHT?

BILL: YEAH. PROBABLY.

FRANK: OKAY.

BILL: OKAY.

FRANK: OKAY. I'LL GET BACK TO YOU WHEN IT COMES IN.

BILL: OKAY.

FRANK: ALRIGHT.

BILL: BYE.

FRANK: BYE-BYE.

(CALL TERMINATED)

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 54A

VI.

October 5, 1981 5:12 p.m.

UF: Law Office. One moment.

(Placed on hold)

UF: May I help you?

ALH: Girl; I called long distance and you put me on hold. This is Alcee. How you doing?

UF: I'm sorry; but I have all these lines going in here and I didn't know, if I'd known it was you, they could've waited.

ALH: I understand. Bill's gone?

UF: No. Hold on just a minute.

ALH: Alright.

(Placed on hold)

WAB: Yes, my brother.

ALH: Hey, my man.

WAB: Um hum.

ALH: I've drafted all those ah, ah, letters, ah, for Hemp...

WAB: Um hum.

ALH ...and everything's okay. The only thing I was concerned with was, did you hear if, ah, you hear from him after we talked?

WAB: Yea.

ALH: Oh. Okay.

WAB: Uh huh.

ALH: Alright, then.

WAB: See, I had, I talked to him and he, he wrote some things down for me.

ALH: I understand.

WAB: And then I was supposed to go back and get some more things.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 54b

EXHIBIT
54b
HOUSE

ALH: Alright. I understand. Well then, there's no great big problem at all. I'll, I'll see to it that, ah, I communicate with him. I'll send the stuff off to Columbia in the morning.

WAB: Okay.

ALH: Okay.

WAB: Right.

ALH: Bye bye.

WAB: Bye.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 55A

4.7

THE FOLLOWING CONVERSATION OCCURRED ON OCTOBER 7, 1981, AT 10:01 A.M. IT IS AN INCOMING CALL RECEIVED OVER 387-1101 BY BORDERS' RECEPTIONIST BY H. PAUL RICO.

UNKNOWN FEMALE: LAW OFFICE.

FRANK: YEAH. THIS IS FRANK AND UH LONG DISTANCE. I'D LIKE TO S TALK TO WILLIAM BORDERS.

UNKNOWN FEMALE: HE'S NOT IN.

FRANK: (INAUDIBLE) DON'T KNOW WHEN HE'S I COULDN'T UH CALL HIM BACK.

UNKNOWN FEMALE: I'M NOT SURE WHAT TIME HE WILL BE IN. I I THINK HE'S IN COURT THIS MORNING. HE'LL PROBABLY BE IN LATER THIS AFTERNOON.

FRANK: OH. ALRIGHT. UH, I'LL GIVE YOU A CALL BACK LATER ON.

UNKNOWN FEMALE: OKAY.

FRANK: IF I COULD UH YOU KNOW...

UNKNOWN FEMALE: OKAY.

FRANK: ...GET A HOLD OF HIM.

UNKNOWN FEMALE: MMM MMM.

FRANK: ALRIGHT DEAR.

UNKNOWN FEMALE: MMM MMM. BYE-BYE.

FRANK: BYE.

(CALL TERMINATED)

1°

EXHIBIT 55b HOUSE

58-1899-Sub 7-14

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 56A

VII.

October 7, 1981 12:19 p.m.

UF: Law Office.

HPR: Yes, William Borders.

UF: Who's calling?

HPR: Frank.

UF: Hold on just a minute.

(Placed on hold)

WAB: Yea, buddy.

HPR: Yea.

WAB: Um hum.

HPR: Frank.

WAB: Um hum.

HPR: Ah, nothing has happened yet, ah...

WAB: Yes it has.

HPR: Uh huh.

WAB: Uh huh.

HPR: I haven't received ah...

WAB: Huh?

HPR: It hasn't arrived at the ah...

WAB: Well, it should. It went out yesterday morning.

HPR: Went out yesterday morning.

WAB: Yea.

HPR: Okay. The, the, ah, what I'd like to do is ah, I've got a, I've got a problem coming up, ah, starting this weekend...

WAB: Uh huh.

HPR: ...and ah, I'd like to get the thing ah, handled...

WAB: Um hum.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 56B

EXHIBIT 56b HOUSE

(2)

WAB: ...so that ah, that's why I wanted to make sure that ah, I could ah, get this, the rest of this thing handled for ya.

WAB: Yea, yea.

HPR: So, ah, could we, could you give me a time that you could come down?

WAB: I have to check into that.

HPR: Yea.

WAB: Uh huh.

HPR: So, ah, well, if what I'd like you to, well what I'd like you to do, if you could do it, it'd really screw me up if ah, if it goe beyond ah, ah Friday, because I've got, you know, I told on before that my wife is ah, isn't feeling that well and I, I, ah, agreed to ah, go on a little trip with her...

WAB: Um hum.

HPR: ...and ah, I don't wanna start explainin' any fuckin' thing to my wife, ah...

WAB: Yea.

HPR: So, if we could do it ah, Thursday or Friday or ah, in that area...

WAB: Um hum, um hum.

HPR: ...that would be great. So, ah, what do ya wanna, how do ya wanna leave it?

WAB: Well, where are you now?

HPR: I'm out, I'm out of ah, ah, my house, but ah, you can, you can call me back there. Do you wanna call me back there and ah...

WAB: I'll call you tonight.

HPR: Ah, okay.

WAB: Okay.

HPR: What time?

WAB: I don't know, if I miss ya, I'll call you back.

(3)

HPR: Okay. Okay. I'll be home ah, probably from 6:30 on.

WAB: Okay.

HPR: So ah, anytime after that would be good.

WAB: Um hum.

HPR: Okay. Just, that, that's all I have to know is ah, when you want to ah...

WAB: Okay.

HPR: ...and you got the number.

WAB: Okay.

HPR: Okay.

WAB: Alright.

HPR: Right.

WAB: Bye.

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 60A

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 60B

WFO 58-1899

OCTOBER 7, 1981
7:39 EDT
OUTGOING

FRANK: HELLO.

BILL: HELLO, FRANK.

FRANK: YES.

BILL: HOW YA DOIN' BUDDY?

FRANK: OH. MUCH BETTER.

BILL: YEAH.

FRANK: I GOT A CALL EVERYTHING WAS FINE.

BILL: UH HUH.

FRANK: PERFECT.

BILL: UH HUH. I CAN'T GET DOWN THERE THIS WEEK.

FRANK: ALRIGHT. THAT'S ALRIGHT WITH ME. I DON'T CARE.

BILL: (LAUGH)

FRANK: (LAUGH) AS FAR AS I'M CONCERNED UH I'M UH 187 PERCENT BETTER.

BILL: Mmm Mmm. Mmm Mmm. Mmm Mmm.

EXHIBIT 60b HOUSE

58-1899
Sub-9

FRANK: THE ONLY PROBLEM I HAVE IS THE FOLLOWING WEEK I'M GONE.

BILL: MMM MMM.

FRANK: SO, UH, WHY DON'T I JUST GET BACK TO YOU OR YOU CAN GET BACK TO ME. I'M COMING BACK THE 17TH.

BILL: MMM MMM. MMM MMM.

FRANK: SO, ANYTIME AFTER THAT IS FINE WITH ME.

BILL: MMM MMM. MMM MMM.

FRANK: SO, UH,

BILL: YOU'RE NOT COMING THIS WAY ARE YA?

FRANK: WELL, I COULD UH I COULD POSSIBLY DO THAT UH BUT I GOTTA GET OUT OF HERE UH BY SUNDAY SO UH I MAY BE ABLE TO UH DO SOMETHING TO UH... YOU WANT ME TO UH YOU WANNA TO JUST COME THAT WAY?

BILL: YEAH. IF YOU CAN.

FRANK: ALRIGHT, UH, WHY DON'T I WHY DON'T I GIVE YOU UH UH WHY DON'T I JUST SEE IF I CAN MAKE ARRANGEMENTS TO GET UP THERE UH FRIDAY...

BILL: O...

FRANK: ...OR THURSDAY.

BILL: ..OKAY.

FRANK: ALRIGHT. AND THEN UH, YOU WANT TO TELL ME NOW OR WHERE OR DO YOU WANT ME TO CALL YOU UH UH AGAIN OR WHAT.

BILL: YEAH. CALL ME WHEN YOU GET IN TOWN.

FRANK: ALRIGHT. OKAY.

BILL: OKAY.

FRANK: OKAY. GREAT.

BILL: RIGHT.

FRANK: THANK YOU.

BILL: BYE.

(CALL TERMINATED)

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 61A

D.20

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 61B

October 8, 1981 9:37 a.m.

WAB: Hello.

ALH: Yes. May I speak with Bill?

WAB: Speaking.

ALH: This is Alcee. How are you?

WAB: How you doin'? Sittin' up here talking' to John Crump.

ALH: Is that right?

WAB: Yea.

ALH: My executive who can't spell Hastings. (Laugh)

ALH: Right on my bar card, Ha - stings. (Laugh)

ALH: Listen here, I'll be there in the morning at 10:40.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 61B

EXHIBIT
61b
HOUSE

WAB: Uh huh.

ALH: And I'm coming in on Eastern Flight Number 130.

WAB: Wait a minute, let me, give me a pen, John. Where are you?

ALH: I'm in Albany, Georgia.

WAB: Goddamn, you move around, man.

ALH: Yea, man. I come over here, I got a little speech this morning. One of my frat brothers invited me over.

WAB: Eastern?

ALH: Eastern Flight 130.

WAB: 130. At 10:40

ALH: Yea.

WAB: Okay.

ALH: Alright, if you, if you are not there, my back-up is, I'll be at the Washington Hilton.

WAB: Okay.

ALH: Couldn't get in the L'Enfant Plaza.

WAB: We can always get you in there.

ALH: Well, if you can, I would prefer it.

WAB: Okay.

ALH: Or if you cannot, I can, I have a reservation at the Hilton.

WAB: Okay.

ALH: Okay.

WAB: Good enough, buddy.

ALH: I'll see you in the morning.

WAB: Right

ALH: Bye.

WAB: Bye.

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 62A

D. 22

THIS IS A CONVERSATION THAT OCCURED ON OCTOBER 9, 1981, AT 11:08 A-M-, BETWEEN H. PAUL RICO (POSING AS FRANK ROMANO) AND AN UNKNOWN FEMALE ON TELEPHONE LINE 387-1101:

UNKNOWN FEMALE: LAW OFFICE.

FRANK: YES. WILLIAM BORDERS PLEASE.

UNKNOWN FEMALE: MR. BORDERS IS NOT IN. IS THERE A MESSAGE?

FRANK: UH, THIS IS FRANK AGAIN. I CAN...

UNKNOWN FEMALE: HE'S...

FRANK: ...GIVE YOU A UH PHONE NUMBER.

UNKNOWN FEMALE: SURE.

FRANK: OKAY. 628...

UNKNOWN FEMALE: UH HUH.

FRANK: ...4200.

UNKNOWN FEMALE: UH HUH.

FRANK: EXTENSION 3103

UNKNOWN FEMALE: OKAY. AS SOON AS HE COMES IN, I'LL HAVE HIM CALL YOU.

FRANK: OKAY.

UNKNOWN FEMALE: ALRIGHTY.

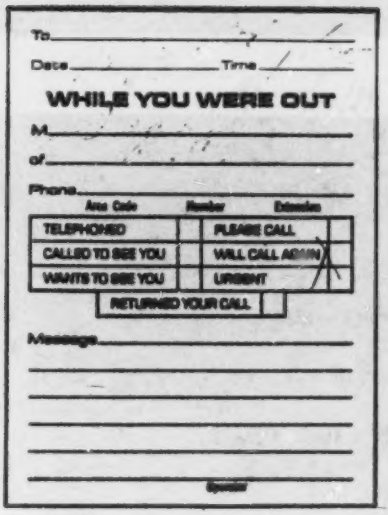
FRANK: THANK YOU.

(CALL TERMINATED)

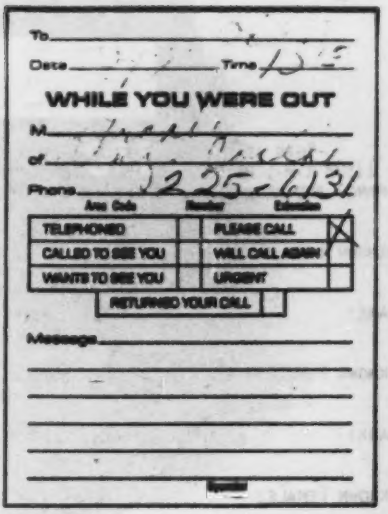
EXHIBIT 62b HOUSE

1°

58-1899-SUB-6

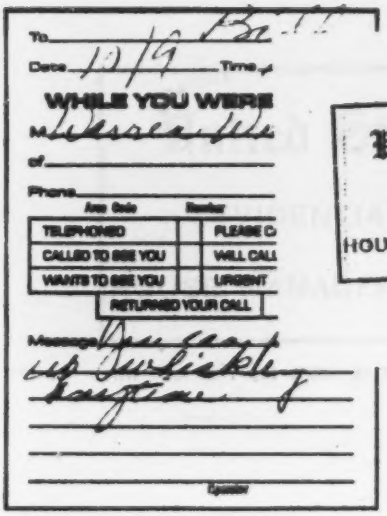


To
Date Time
WHILE YOU WERE OUT
M
of
Phone
Area Code Number Extension
TELEPHONED PLEASE CALL
CALLED TO SEE YOU WILL CALL AGAIN
WANTS TO SEE YOU URGENT
RETURNED YOUR CALL
Message
Operator
AMPAD EFFICIENCY 33-030



To
Date Time
WHILE YOU WERE OUT
M
of
Phone 225-6131
Area Code Number Extension
TELEPHONED PLEASE CALL
CALLED TO SEE YOU WILL CALL AGAIN
WANTS TO SEE YOU URGENT
RETURNED YOUR CALL
Message
Operator
AMPAD EFFICIENCY 33-030

001582



To
Date Time
WHILE YOU WERE
M
of
Phone
Area Code Number
TELEPHONED PLEASE C
CALLED TO SEE YOU WILL CALL
WANTS TO SEE YOU URGENT
RETURNED YOUR CALL
Message
Operator
AMPAD EFFICIENCY 33-030

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 63

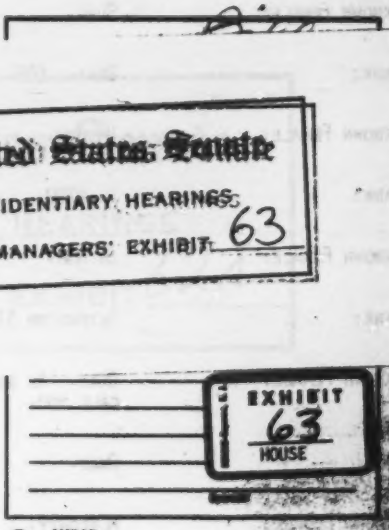


EXHIBIT 63 HOUSE

Operator
AMPAD EFFICIENCY 33-030

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 64A

VIII.

October 9, 1981 11:46 a.m.

UP: Good morning. Marriott Twin Bridges.

WAB: Yes. Which is, what hotel is this?

UP: Marriott Twin Bridges.

WAB: Oh. Yes. Extension 3103.

(Extension ringing)

HPR: Hello.

WAB: Hello. How ya doin'?

HPR: Alright. How are you?

WAB: When ya get in?

HPR: I got in last night.

WAB: Oh. Good.

HPR: In last night.

WAB: Okay.

HPR: So, I brought all the necessary papers.

WAB: Uh huh.

HPR: So, I'm at the ah, ah Marriott near the airport.

WAB: Uh huh.

HPR: At the Twin Bridges, I think this is called.

WAB: Right. Okay. Why don't you uh, Marriott Twin Bridges, okay. Is that the one ah, right over by, it's a tall building?

HPR: Jesus Christ. It's a low, when I came in, it's, it's a low building and I'm like ah, out back of the ah, of the main ah, building.

WAB: Okay.

HPR: It's a low building. And it's Twin, it's Twin Bridges.

WAB: Okay.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 64B

EXHIBIT
64b
HOUSE

HPR: And I've got a lot of ah, you know, it's a lot of paper, so that, I'm in Room 103.

WAB: Okay.

HPR: And ah...

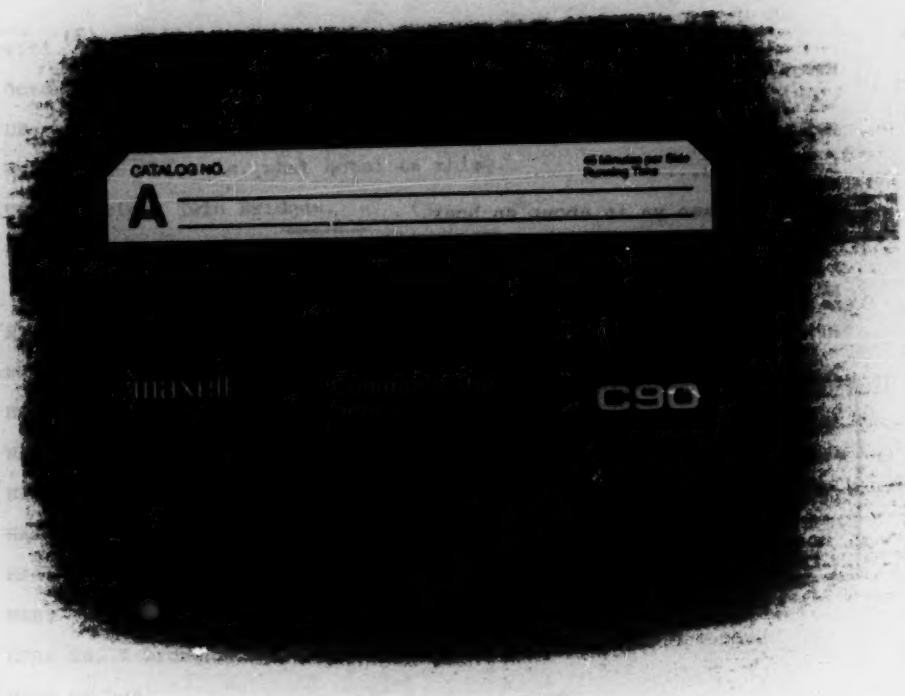
WAB: I'll see ya in about an hour.

HPR: Okay.

WAB: Right.

HPR: Okay. Bye.

WAB: Bye.



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 65A

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 65B

IX.

October 9, 1981

HPR: This is H. Paul Rico. It's approximately 12:15, on October 9, 1981. I'm in Room 103 at the Marriott Twin Bridges Hotel, in the vicinity of the Washington Airport. I'm expecting William borders to come to this room to pick up $125,000.

(For approximately 22 minutes, the recorder was running for a period of time (approximately eight minutes) or turned off for a period of time (approximately 14 minutes). During the period that the recorder was running, Rico conversed with FBI Agents and an unknown male who was inquiring about a Robert Brown. These things occurred while Rico awaited the arrival of William A. Borders.)

(Knock at door)

WAB: Stay around. You got it with you?

HPR: No. It's in here.

WAB: Come on. Get it w. . ., get it, I wanna take a ride.

HPR: It's a (clears throat) I've got it in my ah, travel case.

WAB: Okay.

WAB: How ya been?

HPR: Alright, alright.

WAB: Catch the door. That's a funny looking travel kit you got there.

HPR: Well, it's my ah, carry on bag.

WAB: Uh huh. Yea. How's your wife doing?

HPR: Well, ah, I'm sure that ah, it will be a lot better. . .

WAB: Okay.

HPR: . . . when we ah, get things squared away.

WAB: Okay. You're going away for a week. Right?

HPR: Yea. I am.

WAB: Okay. When you come back, call me. I'll come down. I want to talk to you.

EXHIBIT 65b HOUSE

(2)

HPR: Okay. . .okay.

WAB: Uh, it's turned out to be a nice day.

HPR: Yea. It was cold as a son of a bitch last night.

WAB: Yea. Cold day.

HPR: Tom was so fuckin' nervous about ah, you know, the delay, and . . .

WAB: Yea.

HPR: . . . Yea, pressing me.

WAB: Yea. I understand.

HPR: And, everything is fine.

WAB: There's no problem about it.

HPR: Yea.

HPR: Yea.

(Sirens in background)

WAB: We're busted.

HPR: I'm afraid so.

WAB: Okay.

(Conversation between Rico and FBI Agents.)

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 66
Arrest log 10/9/87

Arlington, Va.

The Following is a log regarding the arrest of William A. Borders, Jr. at the Twin Bridges Marriott Hotel, Arlington, Virginia, by the Federal Bureau of Investigation (FBI):

11:13 am - Undercover Agent Paul Rico telephoned Borders' office From Twin Bridges Marriott Hotel Room 103 and left message For Borders to Return his call.

11:52 am - Borders called Rico at Room 103, Twin Bridges Marriott Hotel, and advised him he would be there in one hour.

12:37 pm - Borders arrived at Room 103, Twin Bridges Marriott Hotel, and instructed Rico to get the money and get in his car. Borders and Rico then departed Hotel Parking lot in Borders' Vehicle, 1979 Brown Cadillac Seville, DC reg 375-081.

12:40 pm - Borders' vehicle stopped on I-395 on Ramp at Twin Bridges Marriott Hotel and Borders placed under arrest by FBI SA's John L. Werner, Carol D. Stiles, Vincent C. McGraw, James Edward Tucker, and Kathleen D. Snyder.

12:47 pm - SA's Werner and Snyder transported Borders back to room 103

EXHIBIT 66 HOUSE

Twin Bridges Marriott Hotel
via Bureau Vehicle.

12:53 PM - Borders taken into Custody by SA's Robert B. Foster and Dale E. Bird, and taken into Room 103, Twin Bridges Marriott Hotel.

12:55 pm - Borders patted down and orally advised of Rights by SA Foster. Borders stated he understood his rights.

12:58 pm - Borders asked for and received a glass of water from SA Foster.

1:05 pm - SA William J. Murphy entered Room 103 and advised Borders that he was being charged with violation of the Travel Act.

1:06 pm - SA Anthony Amoroso entered Room 103 at which time SA Murphy advised Borders of his rights by reading FD-395 "Interrogation; Advice of Rights" Form.

1:07 pm - Borders advised he understood his Rights and signed "Waiver of Rights" portion of FD-395.

1:08 pm - SA's Murphy, Amoroso, Foster, and Bird began interview of Borders and played cassette tape recording to Borders.

1:18 pm - Borders requested and received permission to telephone his attorney. Borders was advised he would be taken to Washington FBI Field office, but requested his attorney be allowed to come to Twin Bridges Marriott

Hotel prior to departure to WFO. This was agreed to and Borders made arrangements for his attorney to come to Hotel.

1:25 pm - Borders was searched by SA Murphy.

1:31 pm - Attorney John Shorter arrived Room 103, Twin Bridges Marriott Hotel.

1:34 pm - Borders and Attorney allowed to speak in private, in room 103.

1:42 pm - Borders and his attorney ended their conversation.

1:43 pm - Borders and his attorney requested and received additional private conversation in room 103.

1:44 pm - Private Conversation ended.

1:45 pm - Borders and his attorney requested and received additional private conversation in room 103.

1:47 pm - Private Conversation ended. Reid H. Weingarten and Jerry McDowell, U.S. Department of Justice Attorneys, arrive outside room 103, Twin Bridges Marriott Hotel.

1:56 pm - S.A. Foster escorted Borders From Room 103 to Bureau Vehicle and with SA Amoroso ~~escorts~~ transported Borders to Washington Field Office.

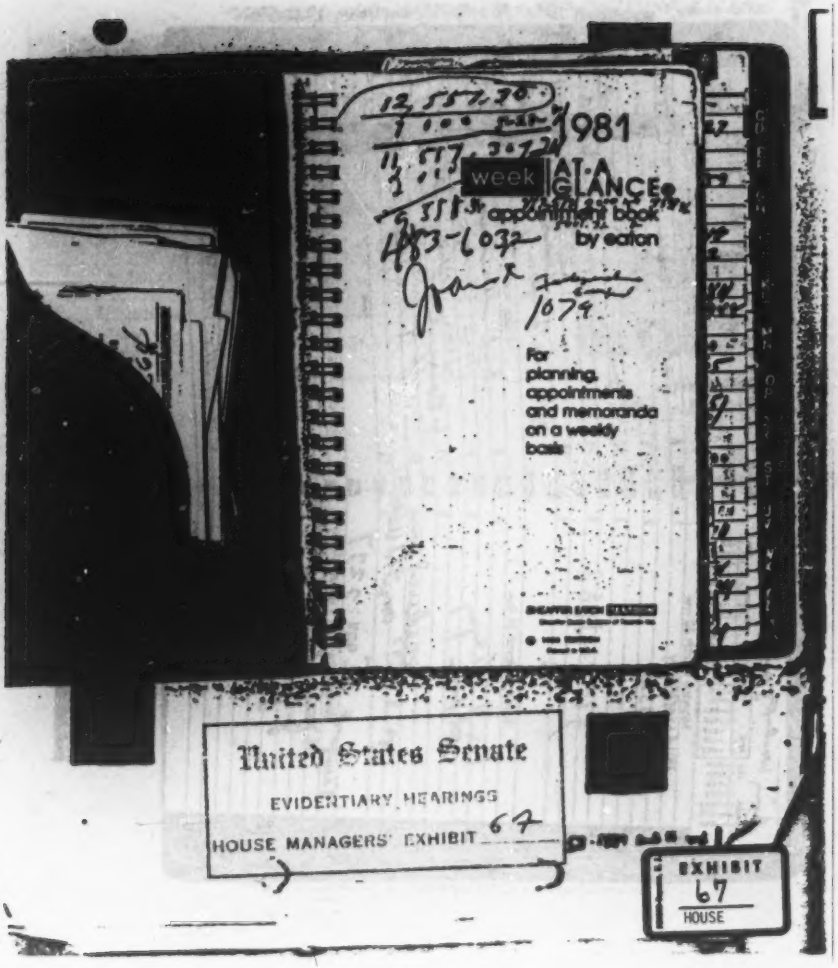
2:05 pm - SA's Foster and Amoroso arrived WFO with Borders

and processed.

3:40 pm - SA's Foster and Amoroso escorted Borders to Bureau Vehicle and departed WFO to U.S. Magistrate Office.

4:03 pm - SA's Foster and Amoroso arrived with Borders at U.S. Magistrate W. Harris Grimsley's Court Room #4, 333 North Fairfax, Alexandria, Virginia. SA Amoroso remained with Borders in Court Room until time of Hearing. Borders remanded to Custody of U.S. Marshal, Alexandria, Va.

SA Dale E. Bird, FBI, Washington b.c. 10/9/81
Robert B. Foster, SA, FBI, WDC 10/9/81
Carol D. Shiller, SA, FBI, WFO, WDC 10/9/81
Ruth V. Marding, SA, FBI, WFO, WDC 10/9/81
Vincent C. McGray, SA, FBI, WFO, WDC 10/9/81
James Edward Foster, SA, FBI, WFO, WDC 10/9/81
John Glenn, SA, FBI, WFO, WDC 10-9-81
Kathleen D. Snyder, SA, FBI, WFO, WDC 10/9/81


1981
week AT A GLANCE
appointment book
by eaton
For planning, appointments and memoranda on a weekly basis
United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 67
EXHIBIT
67
HOUSE

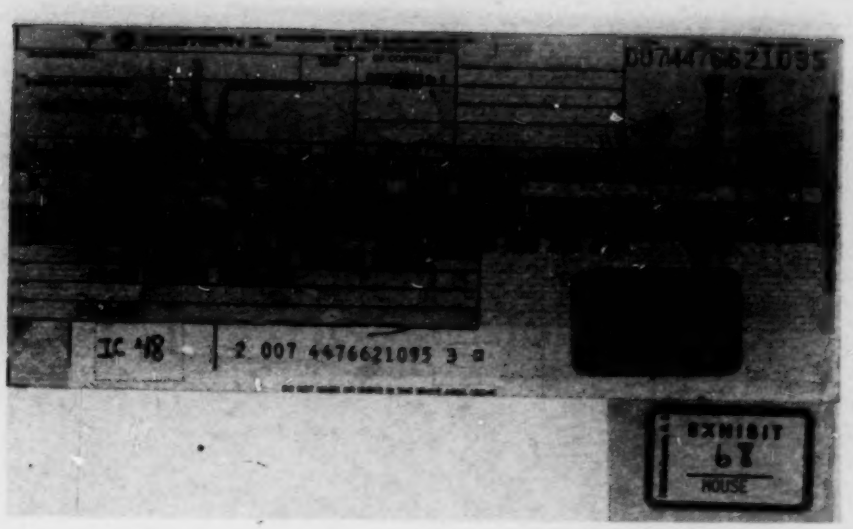

IC 18
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EXHIBIT
67
HOUSE

IC 49
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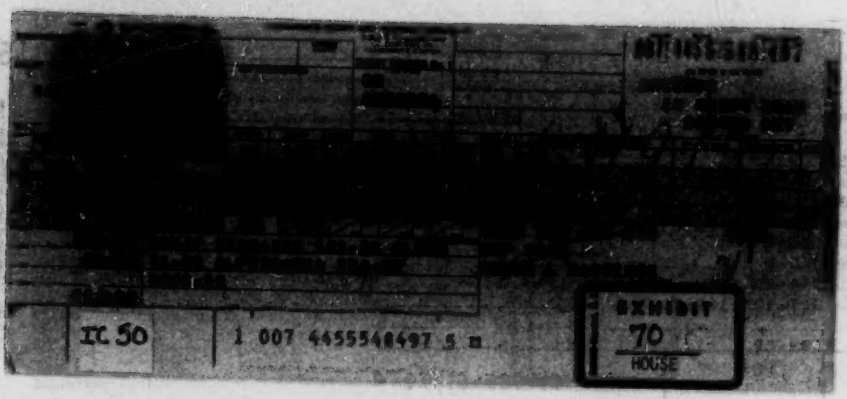
EXHIBIT
69
HOUSE
8-3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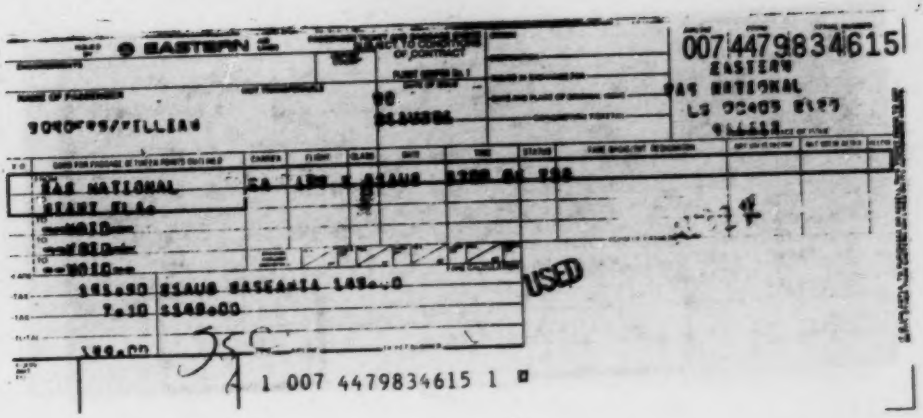
1 007 4455548497 5 n
EXHIBIT
70
HOUSE


EASTERN

007 4479834615

USED

1 007 4479834615 1

IC 37A

EXHIBIT 71 HOUSE

0074476120986
IX-42
1.007 4476120986 5
EXHIBIT
72
HOUSE

EXHIBIT
75
HOUSE
1 007 4448664000 1 N

IC46
2 807 4548664000 5
EXHIBIT
76
HOUSE

MONDAY MARCH 30
thru
SUNDAY APRIL 5
Monday March 30
Tuesday March 31
Wednesday April 1
Thursday April 2
Friday April 3
Saturday April 4
Sunday April 5

BEST AVAILABLE COPY

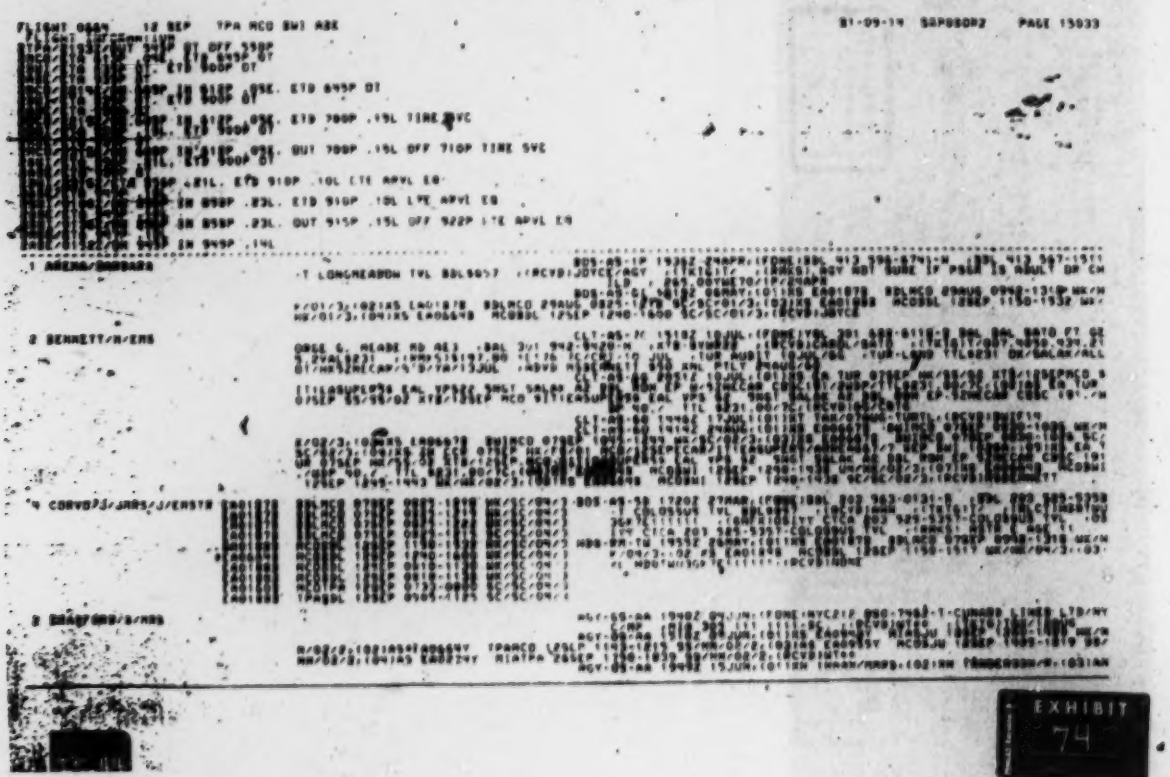
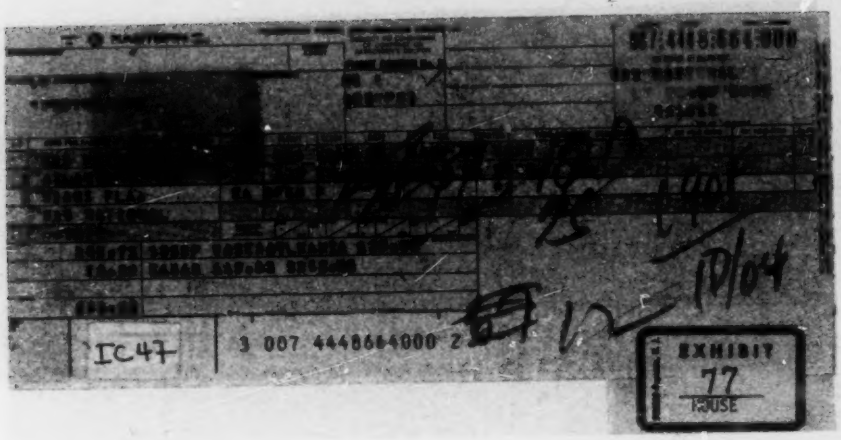
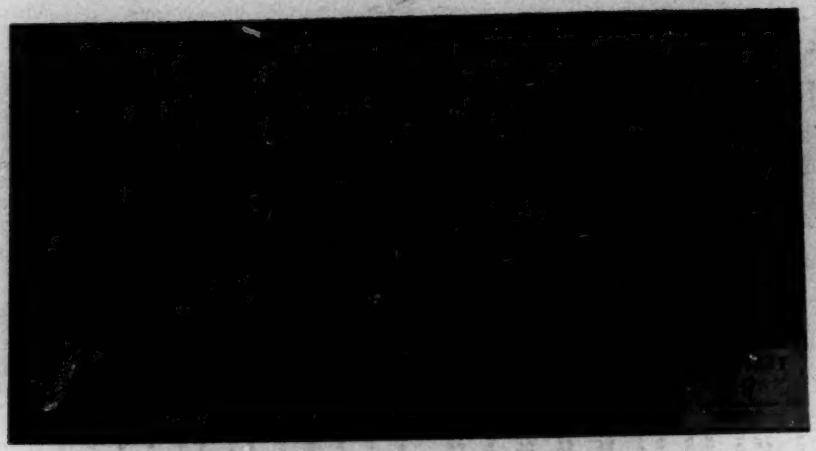


EXHIBIT 74


IC47
EXHIBIT
77
HOUSE



4 of 5

REQUESTED BY Lowe STATION Subpoena

DATE 10/28 19 81 EXTENSION NO.

TICKET(S)	A. L.	FORM	SER-IAL	CPN.	PRIOR OR AGENCY(S) NAME	ATP STR OF OTHER ACCOUNT NUMBER
	007	448	1090387		HASTINGS A.	

☐ AUDITOR'S COUPON ☐ PHOTO ☐ FLIGHT COUPON ☐ PHOTO FLT. NO.

PLACE OF ISSUE DATE 19 DATE 19

☑ HISTORY RUN

A. L.	FORM	SER-IAL	CPN.	FLT. NO.	DATE	CLASS ORIG.	CLASS DEST
007	448	1090387	1 2	176 y LAD V SAG	6/17/81	NIA	DCA

☑ REFUND RUN

A. L.	FORM	SER-IAL	REF.	DRAFT NO.	MONTH OF	AMOUNT
req Refunds						

☑ REISSUE RUN

A. L.	FORM	SER-IAL	CPN.	OF U.S. LOCAL MONTH TO	ORIG.	DEST.
req June Reissues thru August Reissues						

☑ EX. PBLS.

A. L.	FORM	SER-IAL	CPN.	A. L.	MONTH OF	AMOUNT
req June 9 July paybks & August paybks						

☐ OTHER

EXHIBIT 81 HOUSE

☐ COMMENTS Reel location - 48764/6644
OA Box - 17521

48753/1579 FLT 965 6/18/81 Neg

INVESTIGATED BY #2 DATE 19

IG REQUEST RECEIVED BY DATE 19

IC 35C

071 3/19/81

Subpoena

REQUESTED BY Lowe STATION 2 of 3

DATE 10/28 19 81 EXTENSION NO.

TICKET(S)	A. L.	FORM	SER-IAL	CPN.	PSGR.(S) OR AGENCY(S) NAME	ATP STD OR OTHER ACCOUNTING INFO
	007	447	6621095		A HASTINGS	

☐ AUDITOR'S COUPON ☐ PHOTO ☐ FLIGHT COUPON ☐ PHOTO FLT. NO.

PLACE OF ISSUE DATE 19 DATE 19

	A. L.	FORM	SER-IAL	CPN.	FLT. NO.	DATE	CLASS ORIG.	CLASS DEST
☑ HISTORY RUN	007	447	6621095	1	158	7/7/81	F	MIA
	007	447	6621095	2	965	7/20/81	Y	DCA
							DCA	MIA

	A. L.	FORM	SER-IAL	REF.	DRAFT NO.	MONTH OF	AMOUNT
☐ REFUND RUN							

	A. L.	FORM	SER-IAL	CPN.	OF U.S. LOCAL MONTH TO	ORIG.	DEST.
☐ REC. RUN							

	A. L.	FORM	SER-IAL	CPN.	A. L.	MONTH OF	AMOUNT
☐ EX. PBLB.							

☑ OTHER original CPNS

EXHIBIT 82 HOUSE

☐ COMMENT FLT 158 (OA Box - 20308) (Reel Location -)
FLT 965
(OA Box 20513) (Reel 52732/1162)

INVESTIGATED BY #2 DATE 19

IG REQUEST RECEIVED BY DATE 19

IC 49A

071 3/19/81

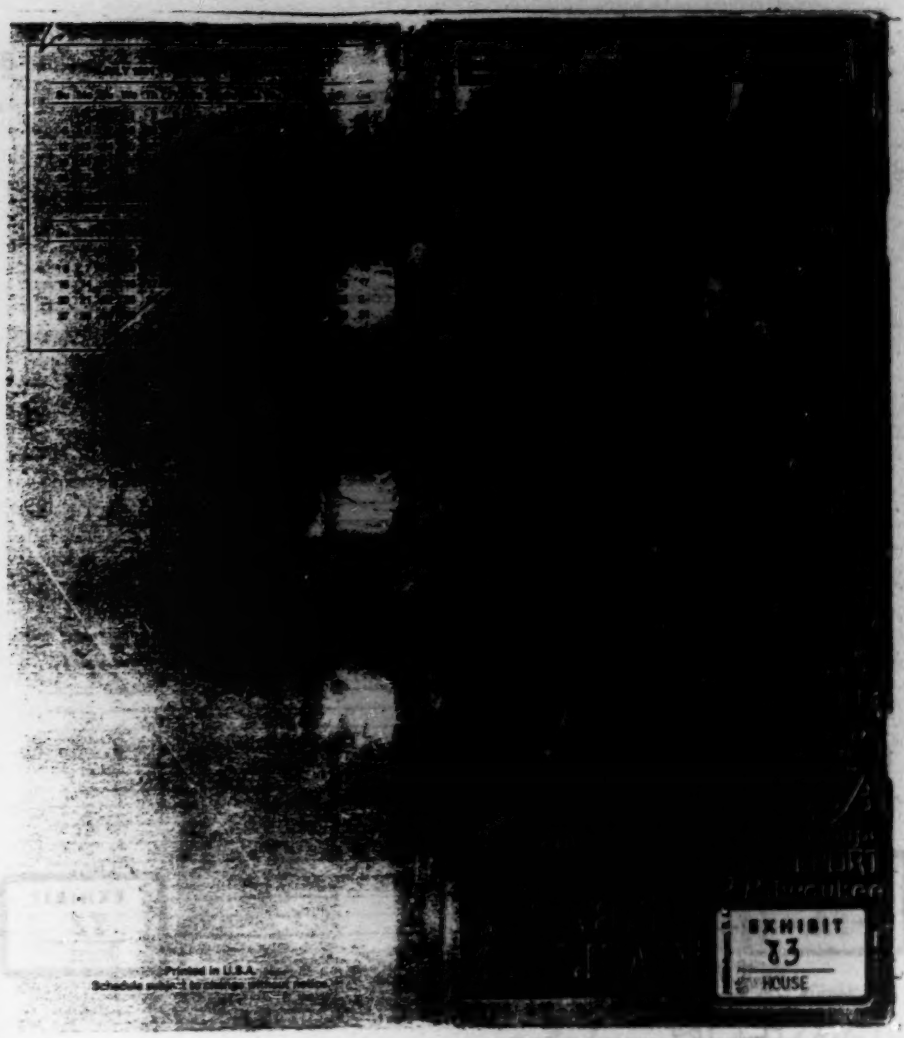


EXHIBIT
83
HOUSE

Check Eastern or your travel agent for fare information.

From: Miami/ Ft. Lauderdale, Fla. (Cont'd)

Reservations: Miami 371-4000, Ft. Lauderdale 463-7510 — Air Freight: Miami 871-4000, Ft. Lauderdale 524-0400

Trinidad
See Port of Spain

Tucson, Ariz.
6 30n 11 53n 784/891 AT1 W W W
6 55n F 11 53n 640/891 AT1 W W W
3 05p 8 34p 660/766 AT1 S M S W Th
Wilmington
4 10p F 8 29p 766/766 AT1 S M S Th
9 10p F 1 28n 482/482 AT1 - S - S
DC9 Open Jaw ORD-MSY-MIA Su
9 30p 1 28n 479/482 AT1 - S - S
DC9 Open Jaw ATL-MSY-MIA Su

Washington, D. C./Baltimore, Md.
4 30n 12 00n S 784/600 AT1 M W S
6 55n F 10 00n S 640/600 AT1 M W S
7 00n F 10 00n S 150 1 W W
7 45n 10 00n S 150 0 W W
9 45n 1 30p W 200/140 AT1 S M S W
9 45n 1 45p S 200/600 AT1 S M S W
9 55n F 1 30p W 720/140 AT1 S M S W
9 55n F 1 45p S 720/600 AT1 S M S W
12 00n 2 10p W 100 0 W W
12 55p F 2 55p W 750 1 W W
13 45p 4 00p S 85/134 AT1 M S W
1 05p 3 27p W 102 0 W W
3 10p F 5 10p S 604 0 S S
3 10p F 5 17p S 604 1 S S
3 40p 5 07p W 170 0 S S
4 55p F 7 45p S 901/172 MIA - S - M
4 55p F 6 10p W 756/604 AT1 S M S W
5 27p 7 40p S 172 0 S W
5 55n F 10 40p W 772/200 MIA - S - S
6 00p 8 00p W 150 0 W W
7 10p 11 40p S 800/125 AT1 S - S -
7 30p F 11 40p S 540/125 AT1 S - S -
7 51p 10 00p W 232 0 S S
8 15p F 1 28n S 482/434 AT1 - - - - DC
9 30p 1 28n S 479/434 AT1 - - - - DC

West Palm Beach, Fla.
7 54n F 9 15n 864 0 - -
12 12p F 12 30p 760 0 - -
1 00p 2 10p 865 0 - -

Wilkes-Barre/Scranton, Pa.
6 30n 11 43n 784/712 AT1 M S W S
6 55n F 11 43n 640/712 AT1 M S W S
8 45n F 3 26p 660/160 MIA - W - W
12 00n 3 26p 160 1 W W
3 00p 6 00p 660/734 AT1 S M S W
4 10p F 8 26p 760/734 AT1 S M S W

From: Milwaukee, Wis.
Reservations: 344-7010 — Air Freight: 344-5850

Acapulco, Mexico
7 00n 12 10p 780/165 AT1 M W W
Su

Atlanta, Ga.
7 00n 9 40n 280 0 W W
11 47n 3 00p 777 0 W W
4 00p 7 40p 282 0 W W
9 00p 11 07p 491 0 - -

Austin, Tex.
7 00n 11 02n 780/140 AT1 M W W W
11 47n 4 35p 777/1000 AT1 W S W S
4 00p 9 00p 787/1051 AT1 W - W -

Birmingham, Ala.
7 00n 10 27n 780/110 AT1 W - W -
11 47n 3 00p 777/1207 AT1 W - W -
4 00p 6 00p 787/1053 AT1 W - W -
8 00p 11 40p 491/1455 AT1 - - - -

Cancun, Mexico
7 00n 11 00n 780/165 AT1 M W W W
Th Su Th
7 00n 11 54n 780/165 AT1 M W W W
Mon Su
7 00n 12 10p 780/165 AT1 M W W W
Fr Su

Charleston, S. C.
7 00n 11 47n 780/264 AT1 W - W -
4 00p 8 30p 787/300 AT1 W - W -

Charlotte, N. C.
7 00n 1 01p 780/340 AT1 W - W -
11 47n 4 30p 777/300 AT1 W - W -
4 00p 9 10p 787/1072 AT1 W - W -
Su
4 00p 9 00p 787/264 AT1 W - W -
Fr Su

Columbia, S. C.
7 00n 11 22n 780/934 AT1 W - W -
11 47n 4 14p 777/300 AT1 W - W -
4 00p 8 05p 787/279 AT1 W - W -

Corpus Christi, Tex.
7 00n 12 43p 780/123 AT1 W W W W
4 00p 10 37p 787/577 AT1 W - W -

Cozumel, Mexico
7 00n 11 00n 780/165 AT1 M W W W
Mon Su

Dallas/Ft. Worth, Tex.
7 00n 11 02n 780/601 AT1 W W W W
11 47n 4 34p 777/473 AT1 W S W S
4 00p 9 10p 787/211 AT1 W - W -

Daytona Beach, Fla.
7 00n 11 50n 780/919 AT1 W S W S
11 47n 4 29p 777/157 AT1 W - W -
4 00p 9 05p 787/606 AT1 W - W -
8 00p 1 21n 491/491 AT1 - - - -

Ft. Lauderdale/Hollywood, Fla.
7 00n 12 45p 780 1 W W W
11 47n 6 40p 777/703 AT1 W W W W
4 00p 10 10p 787/240 AT1 W - W -
8 00p 1 36n 491/775 AT1 - - - -

Fort Myers, Fla.
7 00n 12 00p 780/235 AT1 W S W S
11 47n 4 34p 777/107 AT1 W S W S
4 00p 9 01p 787/703 AT1 W - W -

Gainesville, Fla.
7 00n 11 40n 780/589 AT1 W - W -
11 47n 6 10p 777/999 AT1 W - W -
4 00p 9 01p 787/819 AT1 W - W -

Greensboro/High Point/ Winston-Salem, N. C.
11 47n 4 30p 777/726 AT1 W - W -
4 00p 9 30p 787/1536 AT1 W - W -
Su Th
4 00p 10 10p 787/1072 AT1 W - W -
Su

Greenville/Spartanburg, S. C.
7 00n 11 20n 780/942 AT1 W - W -
11 47n 6 00p 777/700 AT1 W - W -
4 00p 9 00p 787 1 W W W
Th

Guadalajara, Mexico
7 00n 11 59n 780/165 AT1 M W W W
Su Mo Th Su
Th

Houston, Tex.
7 00n 11 22n 780/123 AT1 W W W W
11 47n 4 10p 777/287 AT1 W S W -
4 00p 9 30p 787/877 AT1 W - W -
8 30p 12 50n 491/479 AT1 - - - -
Su

Jacksonville, Fla.
7 00n 11 40n 780/961 AT1 W - W -
4 00p 9 10p 787/139 AT1 W - W -
8 30p 12 50n 491/827 AT1 - - - -
Su

Jamaica
Sun Montego Bay

Mazatlan, Mexico
7 00n 11 25n 780/903 AT1 M W W W
Th
7 00n 1 04p 780/903 AT1 M W W W
Th Su

Melbourne, Fla.
7 00n 12 04p 780/703 AT1 W - W -
11 47n 6 36p 777/402 AT1 W - W -
4 00p 9 37p 787/103 AT1 W - W -

Merida, Mexico
7 00n 11 22n 780/965 AT1 M W W W
Th Su
7 00n 12 04p 780/965 AT1 M W W W
Th Su Th

Mexico City, Mexico
7 00n 11 53n 780/965 AT1 W W W W
4 00p 9 30p 787/965 AT1 W W W W
Su

Miami/Ft. Lauderdale, Fla.
7 00n 12 30p 780/205 AT1 W W W W
7 00n 12 45p F 780 1 W W W
11 47n 8 10p 777/207 AT1 W S W -
11 47n 8 40p F 777/703 AT1 W W W W
4 00p 10 00p 787/97 AT1 W - W -
4 00p 10 10p F 787/240 AT1 W - W -
8 30p 1 36n F 491/775 AT1 - - - -
8 30p 1 40n 491/491 AT1 - - - -

Mobile, Ala.
7 00n 10 40n 780/677 AT1 W - W -
4 00p 8 21p 787/797 AT1 W - W -
9 30p 1 01n 491/491 AT1 - - - -

Montego Bay, Jamaica
7 00n 1 31p 780/903 AT1 M W W W
Su

New Orleans, La.
7 00n 11 03n 780/607 AT1 W - W -
11 47n 3 43p 777/727 AT1 W - W -
4 00p 8 40p 787/809 AT1 W S W -
8 30p 12 26n 491/497 AT1 - - - -

Orlando/(Walt Disney World)
7 00n 12 00n 780/209 AT1 W S W -
11 47n 6 02p 777/202 AT1 W - W -
4 00p 8 40p 787/227 AT1 W - W -
8 30p 1 14n 491/779 AT1 - - - -

Panama City, Panama
7 00n 1 47p 780/961 AT1 M W W W

Pensacola, Fla.
7 00n 10 30n 780/259 AT1 W - W -
11 47n 5 12p 777/691 AT1 W - W -
4 00p 8 22p 787/271 AT1 W - W -
9 00p 12 00n 491/483 AT1 - - - -

Puerto Vallarta, Mexico
7 00n 12 34p 780/933 AT1 M W W W
Th Su
7 00n 1 54p 780/933 AT1 M W W W
Fr Su

Raleigh/Durham, N. C.
7 00n 1 20p 780/530 AT1 W S W -
11 47n 4 37p 777/530 AT1 W - W -
4 00p 11 10p 787/666 AT1 W - W -

San Antonio, Tex.
7 00n 11 53n 780/135 AT1 W W W W
11 47n 4 38p 777/647 AT1 W S W S
4 00p 9 24p 787/673 AT1 W W W W
8 30p 1 53n 491/479 AT1 - - - -

San Juan, P. R.
7 02n 2 17p 780/900 AT1 M W W W
4 00p 11 40p 787/901 AT1 W S W S
8 30p 3 30n 491/897 AT1 - S S S
Su

Sarasota/Bradenton, Fla.
7 00n 12 30p 780/641 AT1 W S W -
11 47n 4 30p 777/109 AT1 W - W -
4 00p 9 40p 787/231 AT1 W - W -

Savannah, Ga.
7 00n 11 20n 780/735 AT1 W - W -
11 47n 4 07p 777/402 AT1 W - W -
4 00p 9 10p 787/200 AT1 W - W -

Tallahassee, Fla.
7 00n 11 41n 780/791 AT1 W - W -
4 00p 9 21p 787/371 AT1 W - W -

Tampa/St. Petersburg/ Clearwater, Fla.
7 00n 12 14p 780/737 AT1 W S W S
11 47n 4 40p 777/133 AT1 W S W -
4 00p 9 34p 787/967 AT1 W - W -
8 30p 1 10n 491/475 AT1 - - - -

West Palm Beach, Fla.
7 00n 12 00p 780/941 AT1 W S W S
11 47n 6 30p 777/201 AT1 W W W W
4 00p 9 00p 787/200 AT1 W - W -

From: Minneapolis/ St. Paul, Minn.
Reservations: Minneapolis 338-0616, St. Paul 228-0616 — Air Freight: Minneapolis 645-5841, St. Paul 646-5841

Acapulco, Mexico
6 40n 12 10p 277/165 AT1 M W W
Su

Antigua, West Indies
7 55n 8 01p 437/525 DNO S M S W
Su Mo Tu We Open Gates At 07 Aug. 29

Atlanta, Ga.
6 40n 9 52n 277 0 W W
9 35n 12 24p 233 0 S S
11 25n 3 20n 779 0 W W
4 00p 7 30p 649 0 W W

Austin, Tex.
6 40n 11 52n 277/140 A
11 25n 4 37p 780/600 A
4 00p 9 32p 649/261 A

Birmingham, Ala.
6 40n 10 25n 277/110 A
11 25n 3 00p 780/527 A
4 00p 8 00p 649/852 A

Cancun, Mexico
6 40n 11 54n 277/965 A
Su
6 40n 11 54n 277/965 A
Mon Su
9 40n 12 10p 277/965 A
Fr Su

Charleston, S. C.
6 40n 11 47n 277/281 A
9 30n 2 54p 233/618 A
4 00p 8 30p 649/388 A

Charlotte, N. C.
6 40n 1 01p 277/340 A
7 55n 1 40p 637/227 CR
11 25n 4 00p 780/340 AT
3 10p 8 10p 79/215 CR
4 30p 9 10p 649/1072 AT
Th
4 30p 9 00p 649/264 AT
Fr

Chicago, Ill.
7 55n 9 02n 0 637 0
3 10p 4 30p 0 79 0

Columbia, S. C.
6 40n 11 22n 277/934 AT
9 30n 2 31p 233/474 AT
11 25n 4 14p 780/300 AT
4 30p 8 05p 649/279 AT

Corpus Christi, Tex.
6 40n 12 43p 277/123 AT
4 30p 10 37p 649/577 AT

Cozumel, Mexico
6 40n 11 00n 277/965 AT
Mon Su

Daytona Beach, Fla.
6 40n 11 50n 277/919 AT
7 50n 1 47p 637 2
9 30n 3 40p 233/329 AT
11 25n 4 35p 780/553 AT
4 30p 8 53p 649/965 AT

El Paso, Tex.
6 40n 11 29n 277/931 AT

Ft. Lauderdale/Hollywo
6 40n 12 45p 277/720 AT
9 30n 5 14p 233/619 AT
11 25n 6 40p 780/703 AT
3 10p 10 00p 79/436 BM
4 30p 10 10p 649/240 AT

Fort Myers, Fla.
6 40n 12 00p 277/235 AT
9 30n 5 10p 233/243 AT
11 25n 6 34p 780/107 AT
4 30p 9 01p 649/703 AT

Gainesville, Fla.
6 40n 11 40n 277/589 AT
9 30n 3 07p 233/367 AT
11 25n 6 12p 780/907 AT
4 30p 9 01p 649/819 AT

Certain flights will not operate on Holidays. Check Eastern

Check Eastern or your travel agent for fare information. Effective July 2, 1991

From: Washington, D. C./ Baltimore, Md. (Cont'd)

Connections: Washington (703-685-1234), Baltimore (301-685-1234), Washington (703-685-1234), Baltimore (301-685-1234)

Gainesville, Fla. (cont'd)

Greenboro/High Point/ Winston-Salem, N. C.

Greenville/Spartanburg, S. C.

Guadalajara, Mexico

Guadeloupe
See Points a Pitre

Guatemala City, Guatemala

Haiti
See Port au Prince

Hartford, Conn./ Springfield, Mass.

Houston, Tex.

Jacksonville, Fla. (cont'd)

Jamaica
See Montego Bay

Las Vegas, Nev.

Los Angeles, Cal.

Louisville, Ky.

Martinique
See Fort de France

Mazatlan, Mexico

Melbourne, Fla.

Merida, Mexico

Mexico City, Mexico

Miami/Ft. Lauderdale, Fla.

Mobile, Ala.

Montego Bay, Jamaica

Montreal, Canada

Nashville, Tenn.

Nashville, Tenn. (cont'd)

Nassau, Bahamas

New Orleans, La.

New York, N. Y./Newark, N. J.
Air Shuttle See Page 2

Oklahoma City, Okla.

Omaha, Neb.

Orlando/(Walt Disney World)

Ottawa/Hull, Canada

Panama City, Panama

Pensacola, Fla.

Philadelphia, Pa./Wilmington, Del.

Phoenix, Ariz.

Pointe a Pitre, Guadeloupe

Port au Prince, Haiti

Portland, Ore.

Port of Spain, Trinidad

Providence, R. I.

Puerto Vallarta, Mexico

All flights carry freight and are daily except as noted.

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[illegible] MIAMI [illegible]	FA	673 F[illegible]JUL	0800P	DS FMAS	
X ATLANTA	FA	836 F[illegible]JUL	[illegible]	DS FMPV	
[illegible]ALTI[illegible]ORE INT					
--VOID--				CASH	

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19.62 EA80T 199.00 [illegible]
328.00

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PASSENGER REVENUE/STATISTICAL ESTIMATE CONFIDENTIAL MANAGEMENT INFORMATION

FLT	SVC TYPE	EQUIP USED	EAM CK	ORG STA	DES STA	REV ORG	REV CPL	POS ORG	POS /PL	SPA ORG	SPA CPL	ASM AVL SEAT	MLS FLWN	REVPSG MILES	AVAIL ST MLS	LF DAY	TODATE REVPSG MILES	TODATE AVAIL ST MLS	TODATE LF MTD	TODATE REV ONBD	TODATE REV CMPL	TODATE AVAIL SEATS	TIMES OPTD
	Y	TOTAL				140	138	2	2			274	991	125204	128917	97	1029097	1184253	88	1184	1197	2568	
196	F	2 B-727	47	PBI	JFK	6	6				3	5	12	1028	6168	12336	50	72988	86252	85	71	71	85	2
196	F	2 B-727	49	PBI	JFK	NOT	OPERATED	TODAY			3	5	12	1028	6168	12336	50	18509	25672	72	18	18	256	
	F	TOTAL				6	6				5							91492	111924	82	89	89	184	
196	Y	50 B-727	47	PBI	JFK	73	73					125	1028	81212	128500	63	736018	893300	81	716	716	893	2
196	Y	50 B-727	49	PBI	JFK	NOT	OPERATED	TODAY									171676	251672	68	167	167	277	2
	Y	TOTAL				73	73					125	1028	81212	128500	63	907729	1181172	76	883	883	1170	
	F	2 B-727	38	DCA	BIA	(12	12)					12	920	11040	11040	100	80480	93380	87	91	91	188	9
	F	TOTAL				12	12					12	920	11040	11040	100	80480	93380	87	91	91	188	
	Y	50 B-727	38	DCA	BIA	(105	105)			(13	13)	137	920	100280	126040	79	841240	1139380	96	857	857	1233	9
	Y	TOTAL				105	105			13	13	137	920	100280	126040	79	841240	1139380	96	857	857	1233	
198	F	2 B-727	31	FLL	BIA	1	1	2	2	1	1	12	21	21	252	33	126	301	25	6	6	12	2
198	F	2 B-727	51	BIA	DCA	2	2	3	1	1	1	12	920	1400	11040	91	9260	22680	91	10	10	252	2
198	F	2 B-727	22	FLL	BIA	NOT	OPERATED	TODAY									252	1512	37	2	2	12	2
198	F	2 B-727	22	BIA	DCA	NOT	OPERATED	TODAY									21168	66240	32	23	11	24	2
	F	TOTAL				5	5	5	3	2	2	24	941	1681	11292	91	30738	90336	34	51	34	192	
198	Y	50 B-727	31	FLL	BIA	18	18					95	21	378	1995	18	483	2990	12	83	83	188	2
198	Y	50 B-727	51	BIA	DCA	61	61				1	95	920	56180	87400	64	80960	179680	46	88	88	1360	2
198	Y	50 B-727	22	FLL	BIA	NOT	OPERATED	TODAY									1386	11970	11	7	7	84	2
198	Y	50 B-727	39	FLL	BIA	NOT	OPERATED	TODAY									147	3717	3	3	3	177	
198	Y	50 B-727	22	BIA	DCA	NOT	OPERATED	TODAY									220080	529200	42	76	76	570	1
198	Y	50 B-727	34	BIA	DCA	NOT	OPERATED	TODAY									23188	168300	13	13	13	1071	1
	Y	TOTAL				79	79				1	190	941	56498	89395	63	325904	881717	36	454	370	1071	
200	F	2 B-727	47	BIA	DCA	12	12					12	920	11040	11040	100	80240	93040	91	88	88	188	9
200	F	2 B-727	38	BIA	DCA	NOT	OPERATED	TODAY									72300	86250	83	9	9	96	1
200	F	2 B-727	49	BIA	DCA	NOT	OPERATED	TODAY									7380	11040	66	9	9	92	1
	F	TOTAL				12	12					12	920	11040	11040	100	89820	99380	90	98	98	188	
200	Y	50 B-727	47	BIA	DCA	102	102	1	1	22		125	920	93840	115000	81	668940	830000	80	172	172	1332	9
200	Y	50 B-727	38	BIA	DCA	NOT	OPERATED	TODAY									501360	736250	68	166	166	1332	1
200	Y	50 B-727	49	BIA	DCA	NOT	OPERATED	TODAY									76500	115000	66	17	17	1332	1
	Y	TOTAL				102	102	1	1	22		22	125	920	93840	115000	81	670800	1181250	56	355	355	1332	
201	F	2 DC-9	15	BWI	BIA	1	1					2	12	1050	1050	12600	8	22050	75600	29	21	21	76	9
201	F	2 DC-9				NOT	OPERATED	TODAY										53550	71400	75	15	15	76	1
	F	TOTAL				1	1					2	12	1050	1050	12600	8	75600	147000	51	36	36	152	
201	Y	34 DC-9	15	BWI	BIA	82	82					80	1050	65100	84000	77	612000	882000	69	126	126	1008	9
201	Y	34 DC-9				OPERATED	TODAY										346350	441750	78	63	63	504	1
	Y	TOTAL				82	82					80	1050	65100	84000	77	958350	1323750	72	189	189	1512	
202	F	2 B-727	31	MCO	ATL	NOT	OPERATED	TODAY			6	6	12	903	2418	4836	50	5423	13041	41	3	3	12	1
202	F	2 B-727	51	ATL	MCO	NOT	OPERATED	TODAY									1446	3864	37	1	1	12	1
	F	TOTAL				6	6				6	6	12	903	2418	4836	50	6869	16905	40	4	4	24	
202	Y	50 B-727	31	MCO	ATL	125	125	1	1			137	903	99972	99811	99	1337762	1800961	74	744	744	1332	9
202	Y	50 B-727	51	ATL	MCO	NOT	OPERATED	TODAY									213630	338961	63	119	119	1332	1
	Y	TOTAL				125	125	1	1			137	903	99972	99811	99	1551392	2139922	72	863	863	1332	

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EXHIBIT 73 HOUSE

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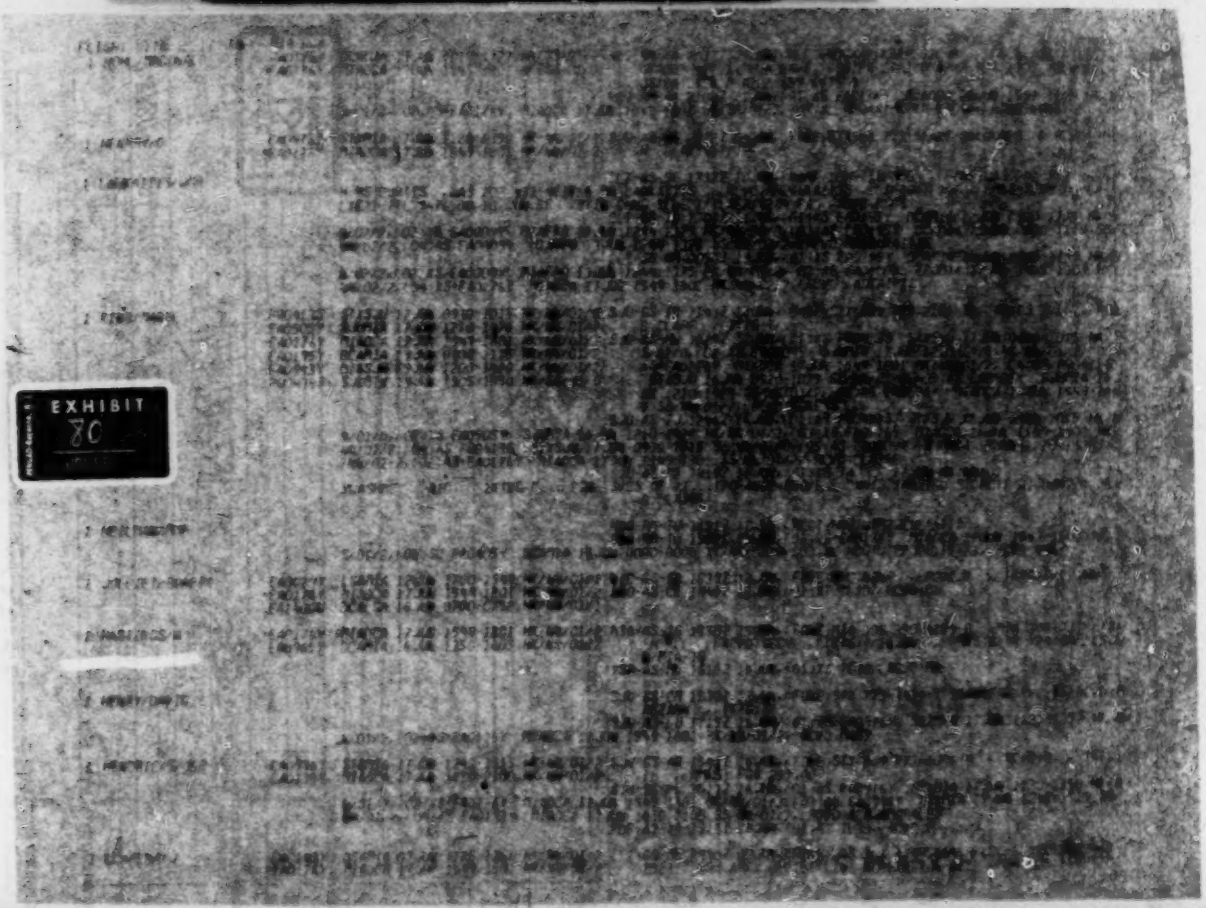

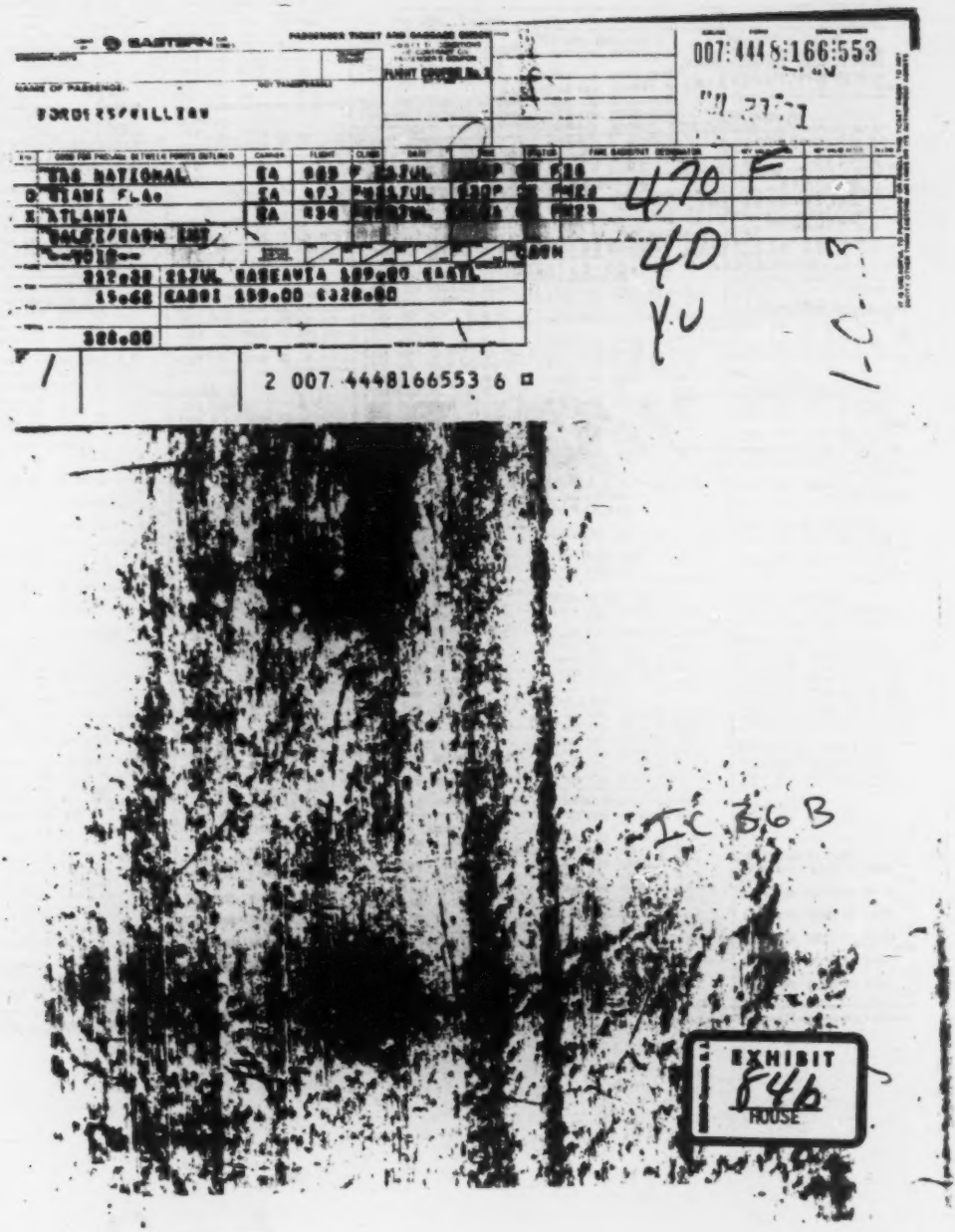
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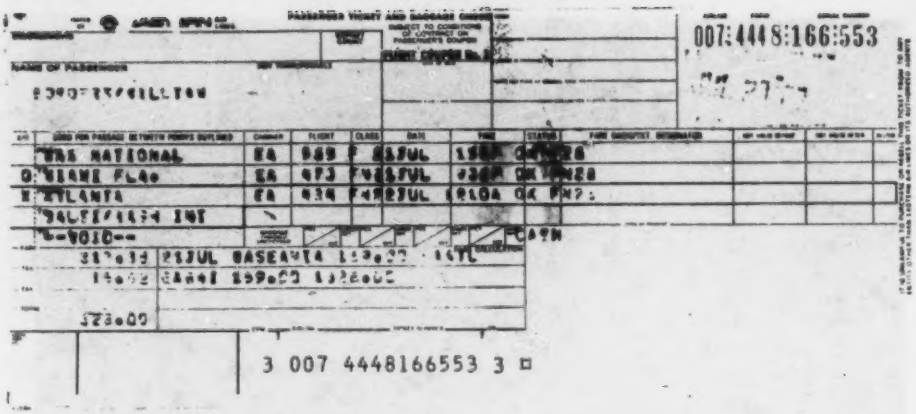
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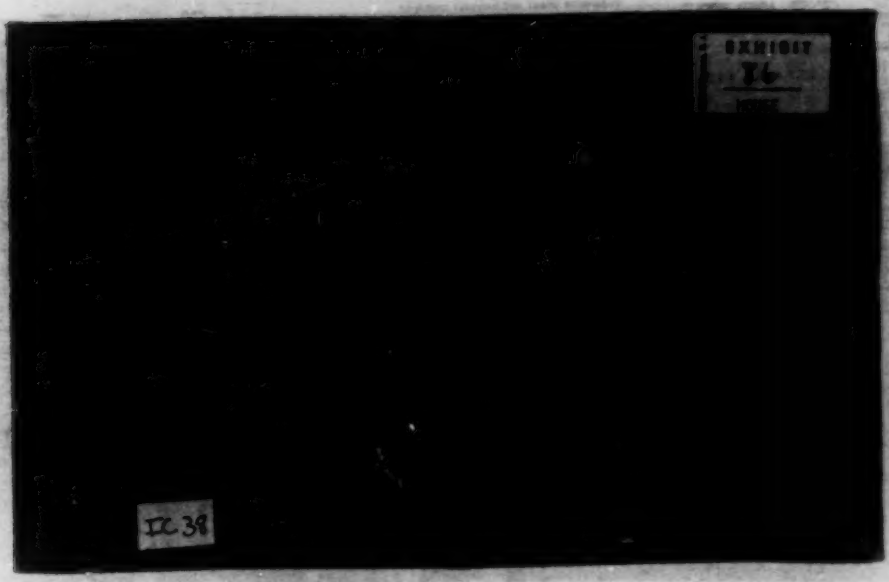
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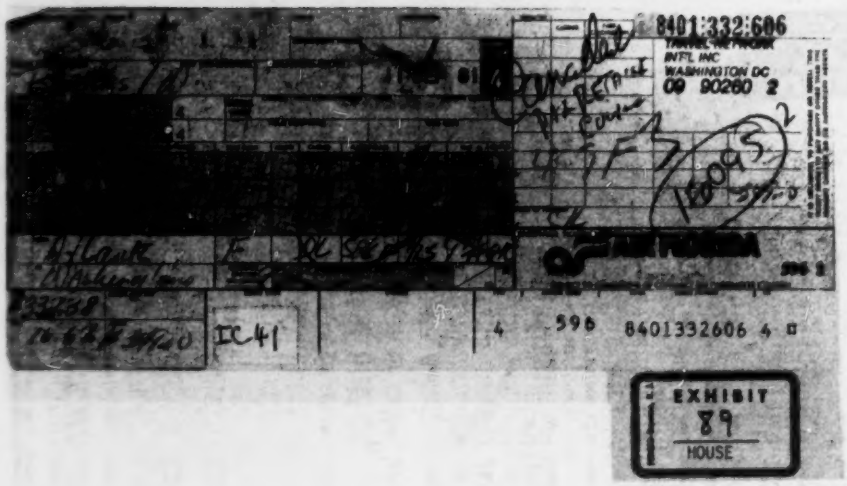
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WASHINGTON DC
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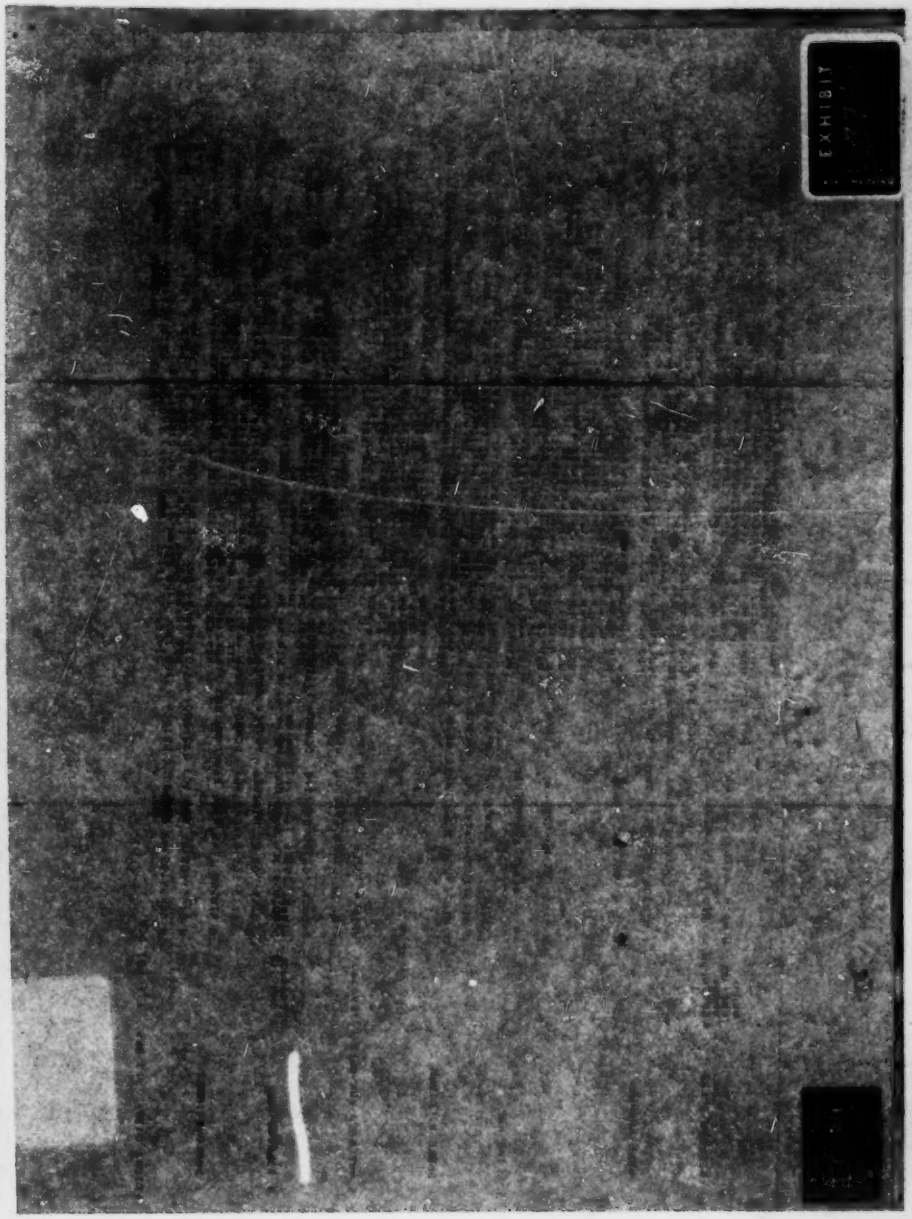
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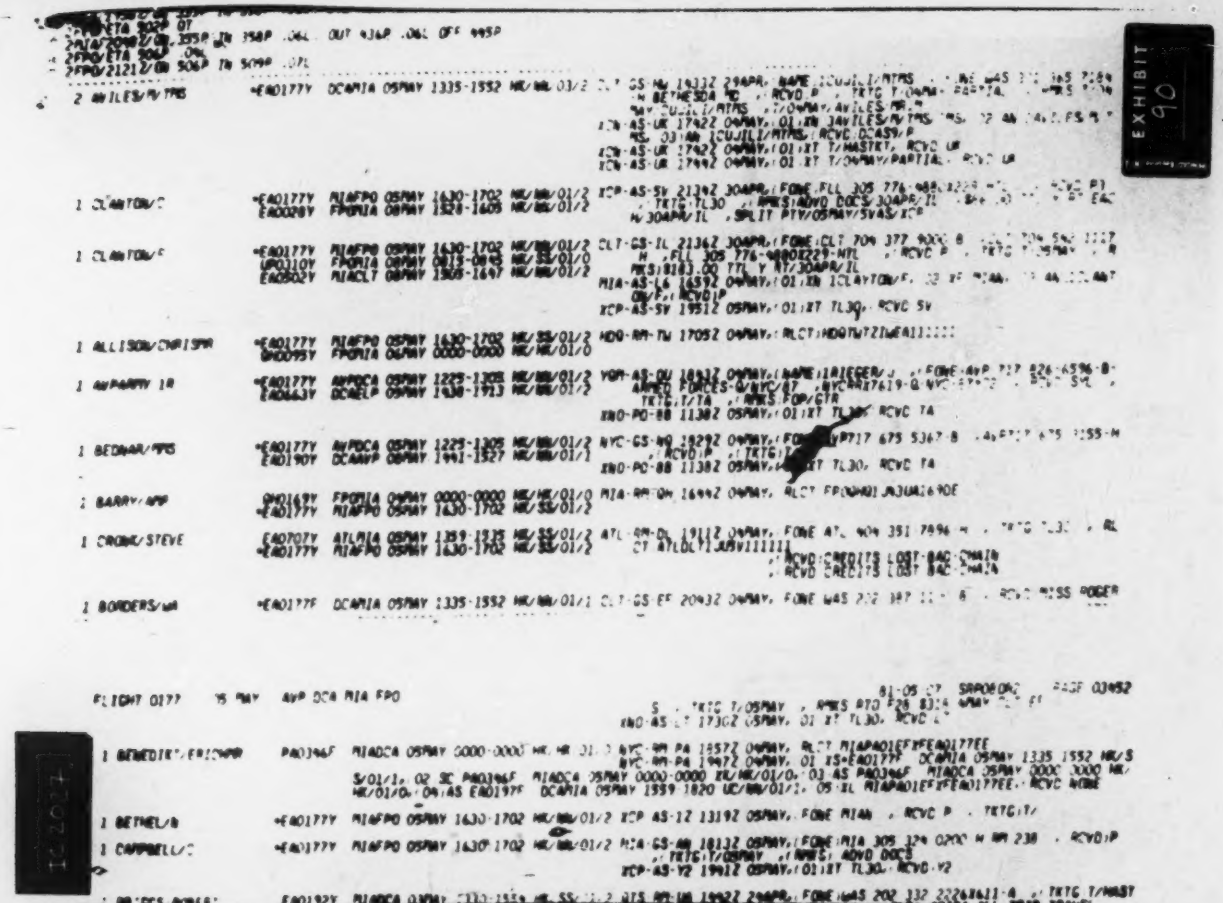

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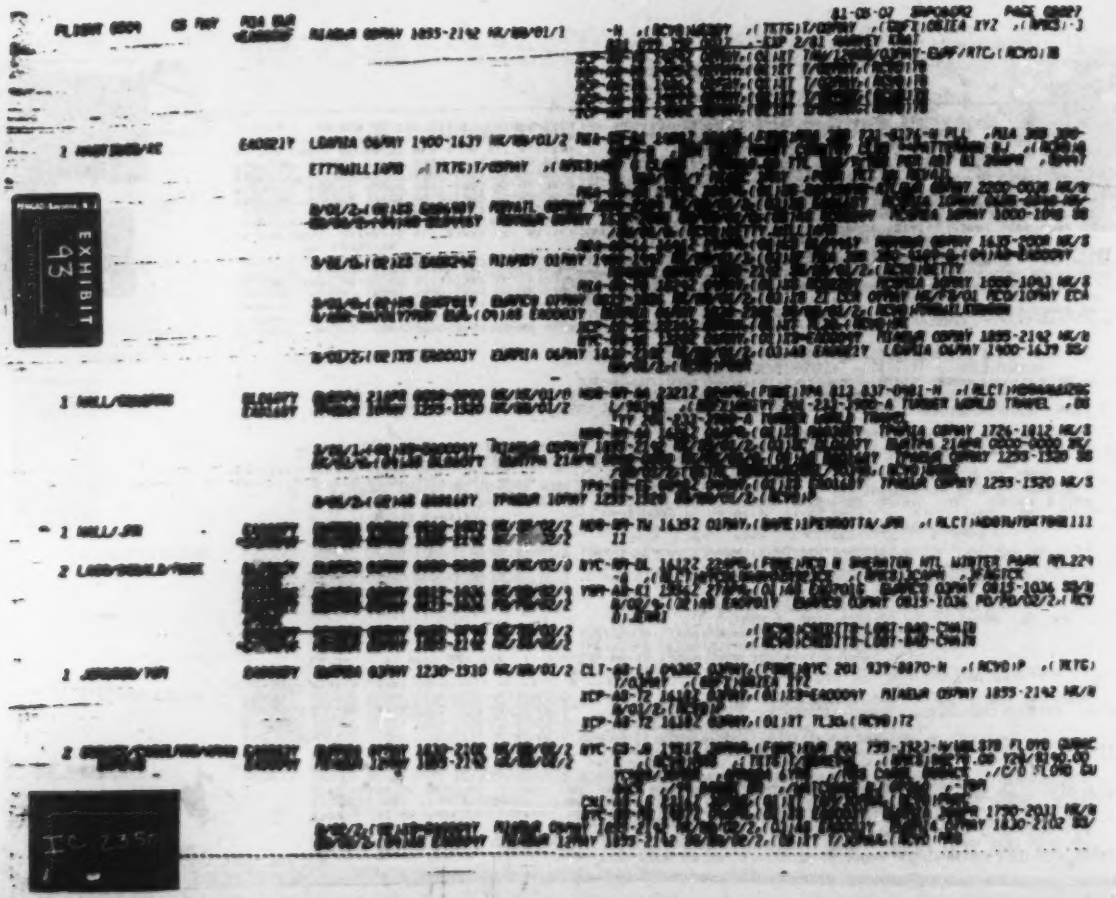
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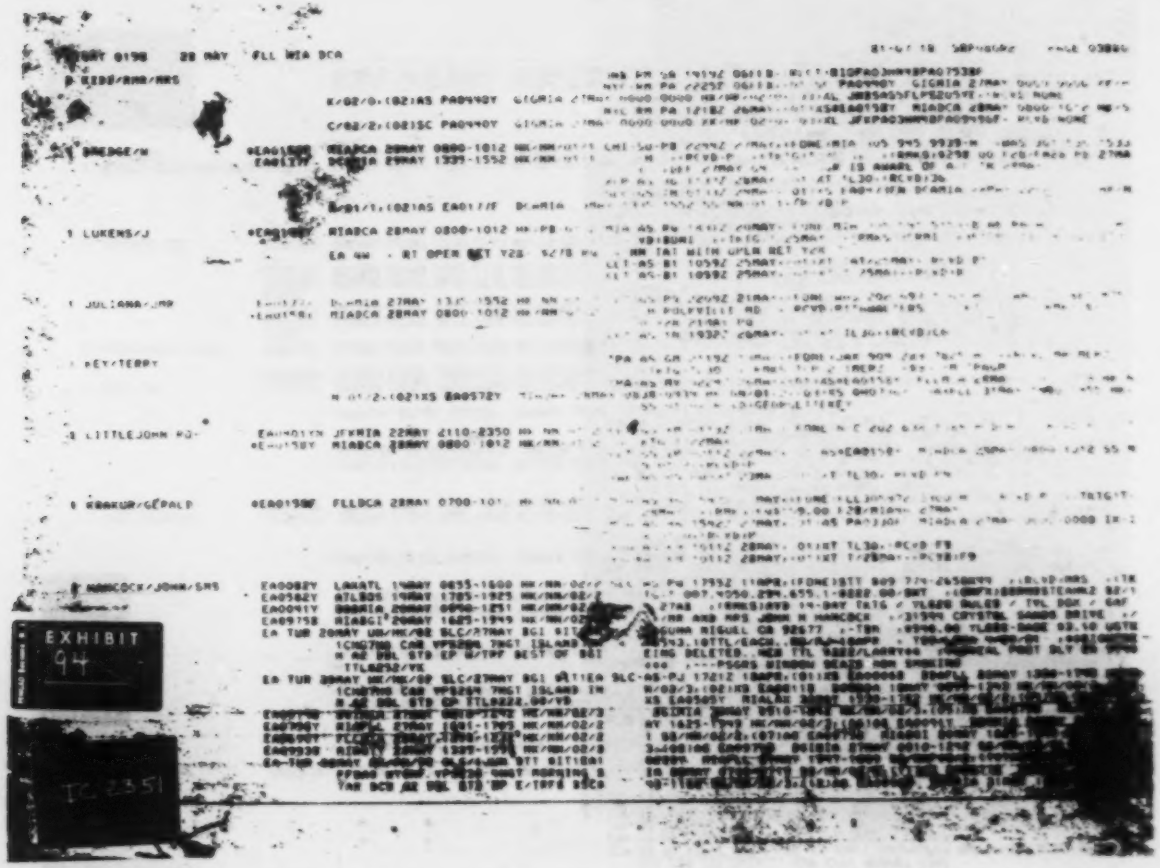
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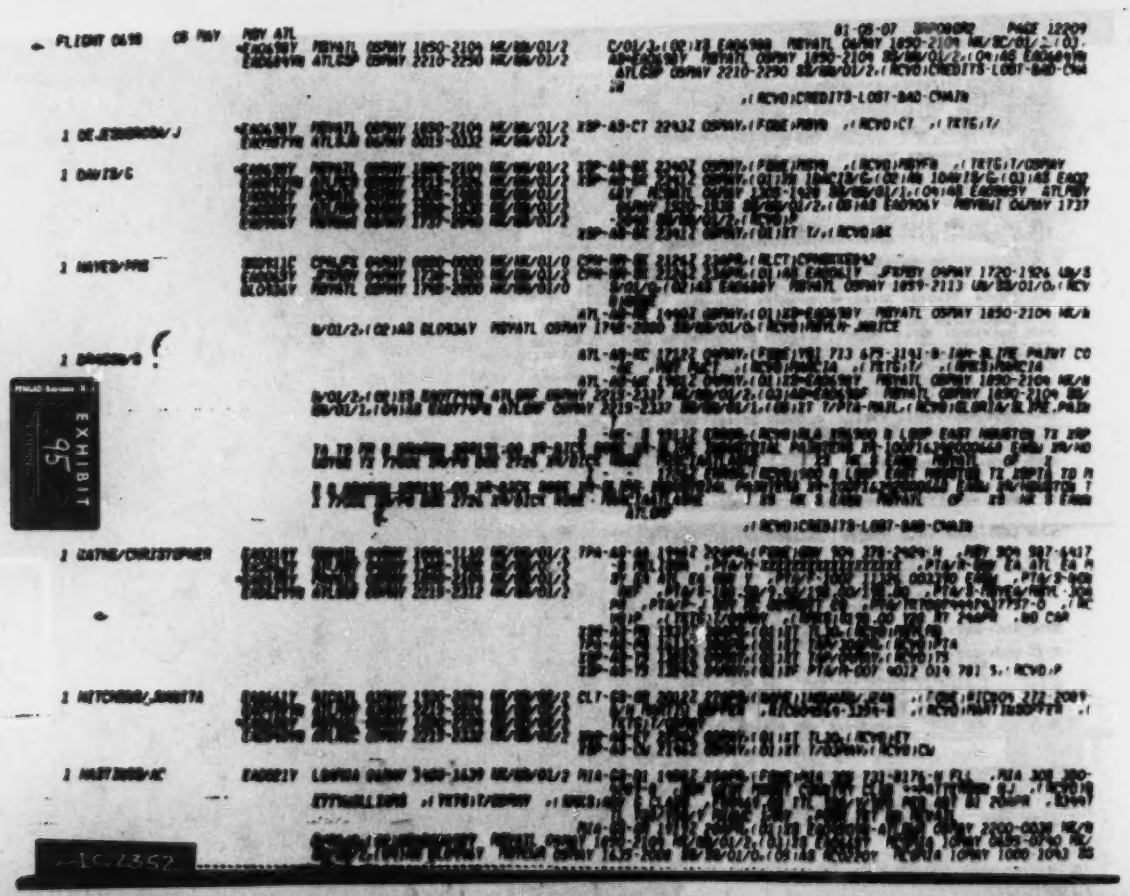

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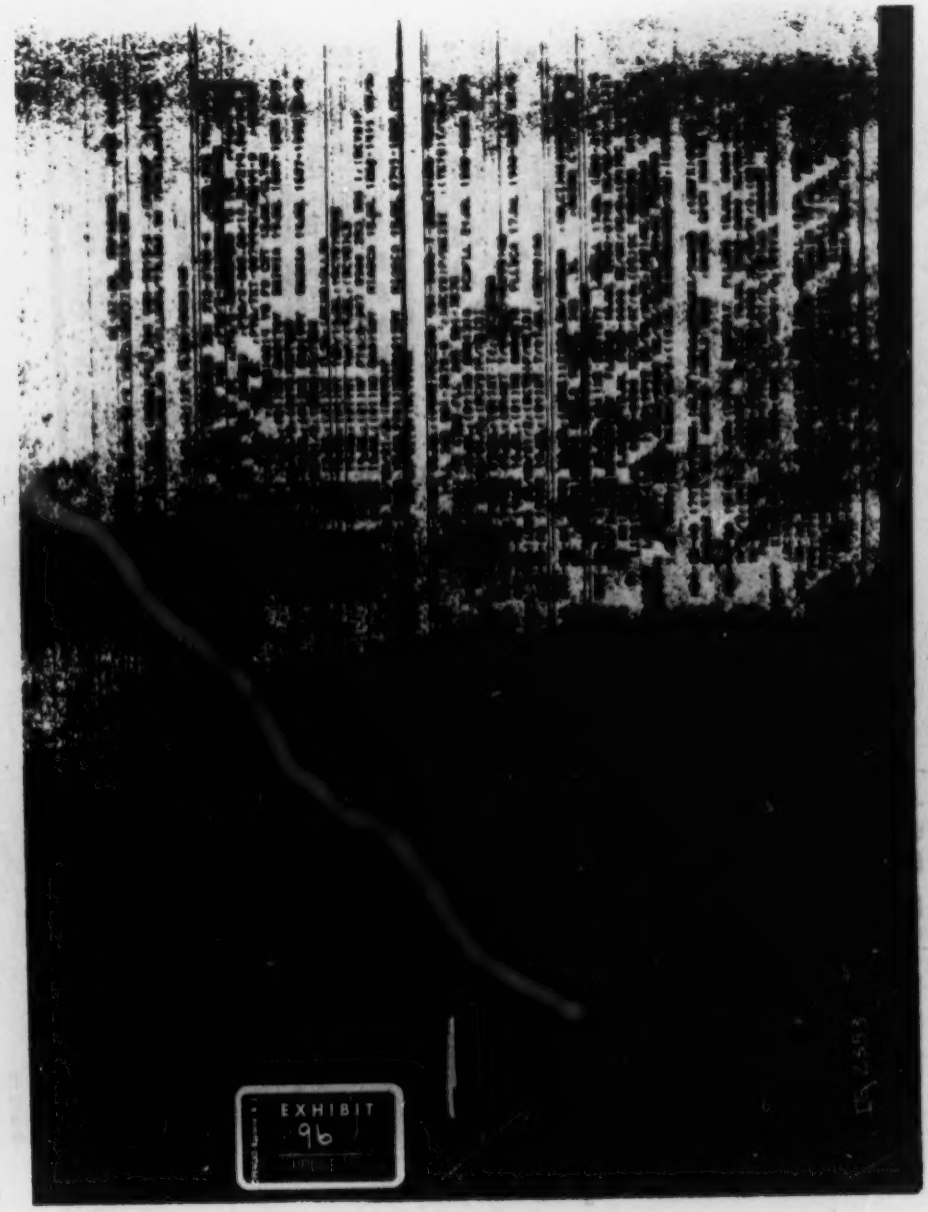
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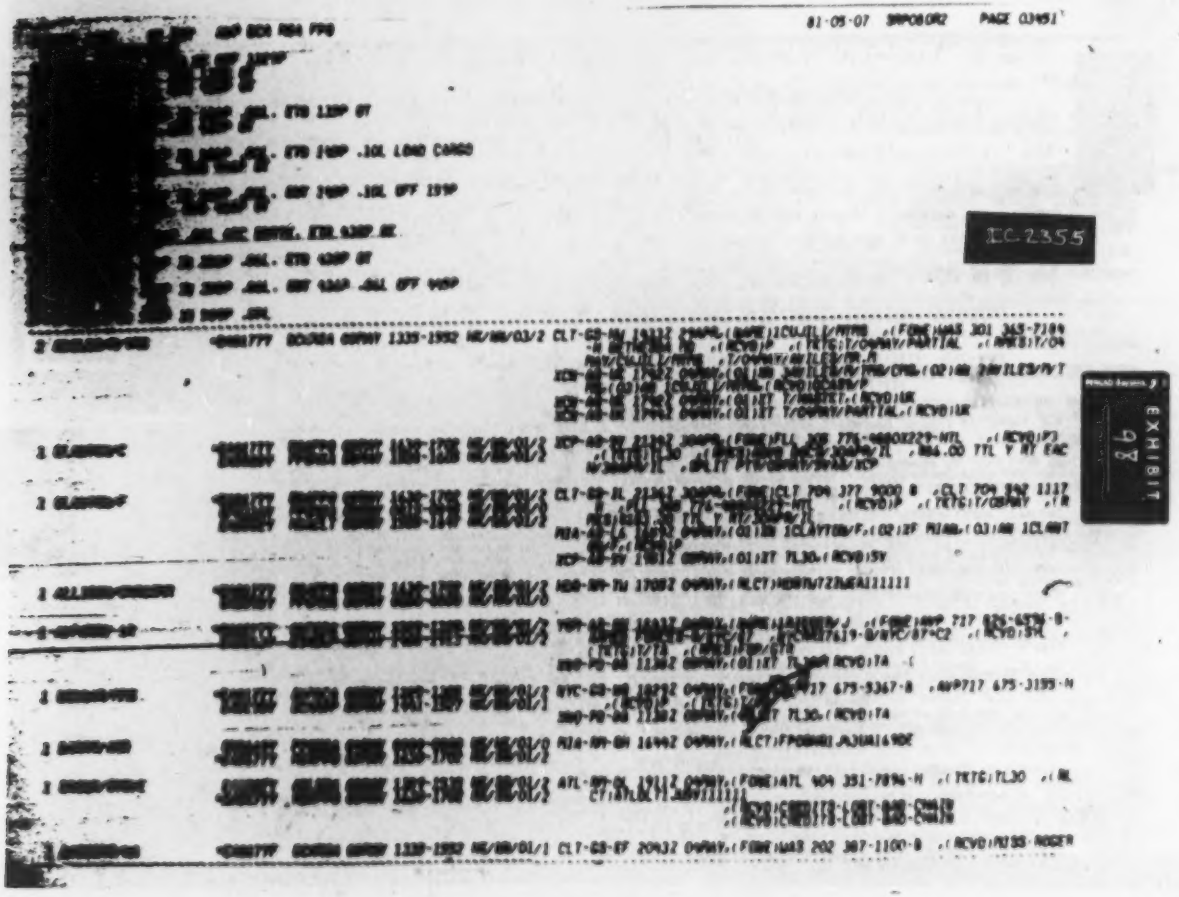

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IC-2355

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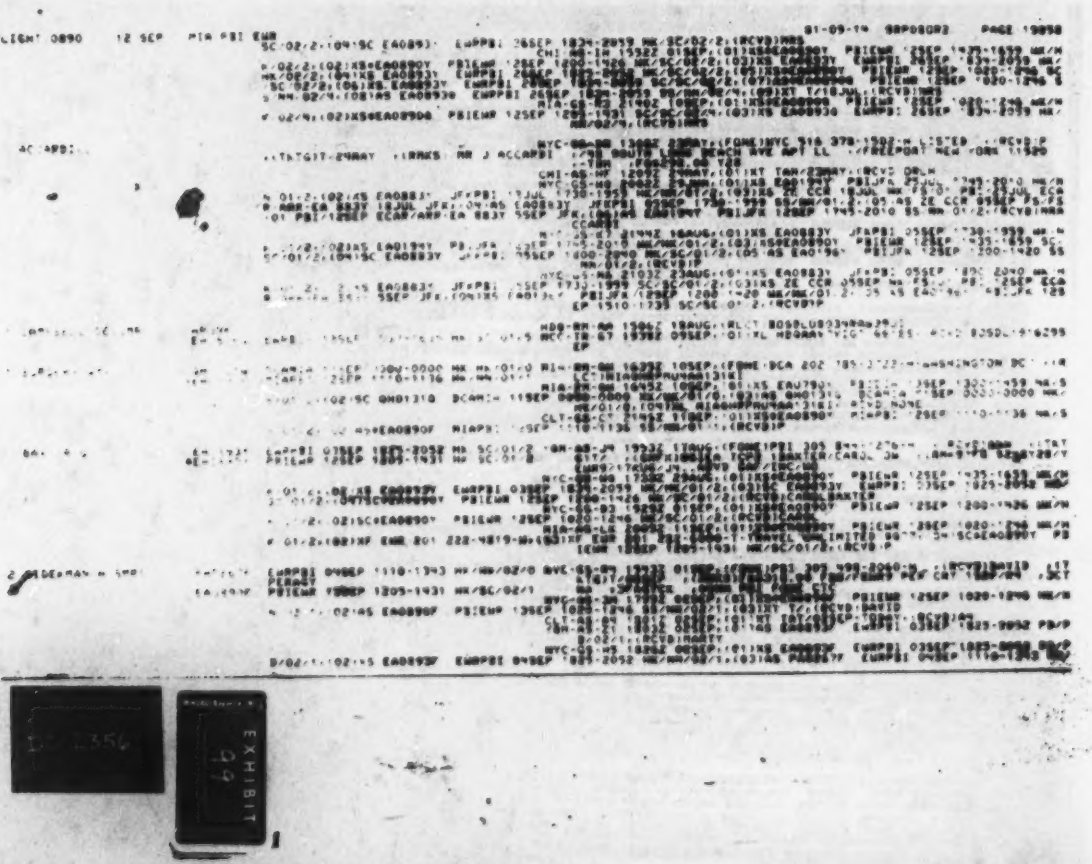
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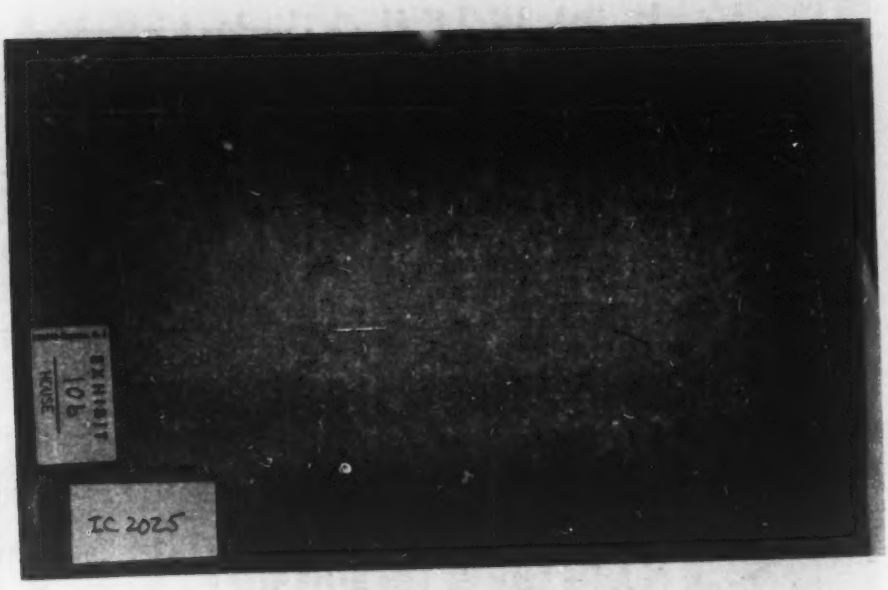
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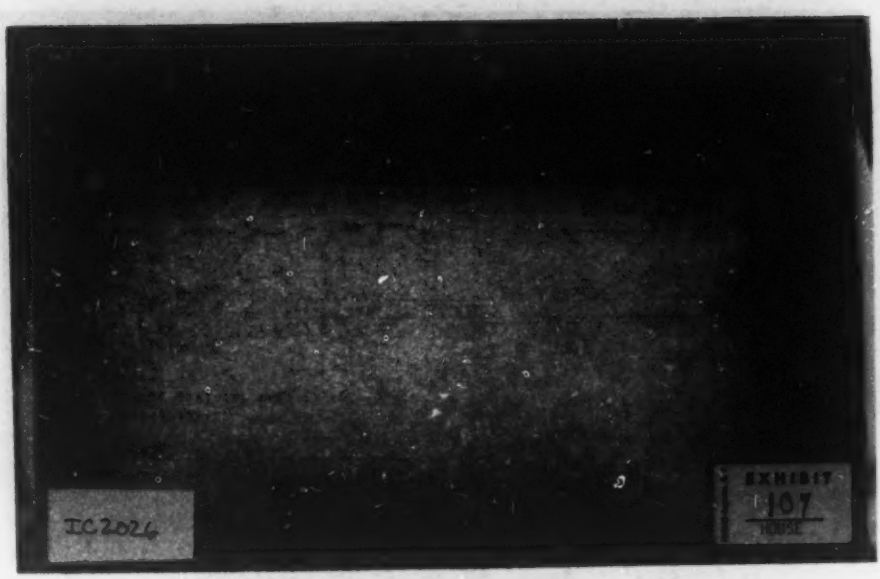
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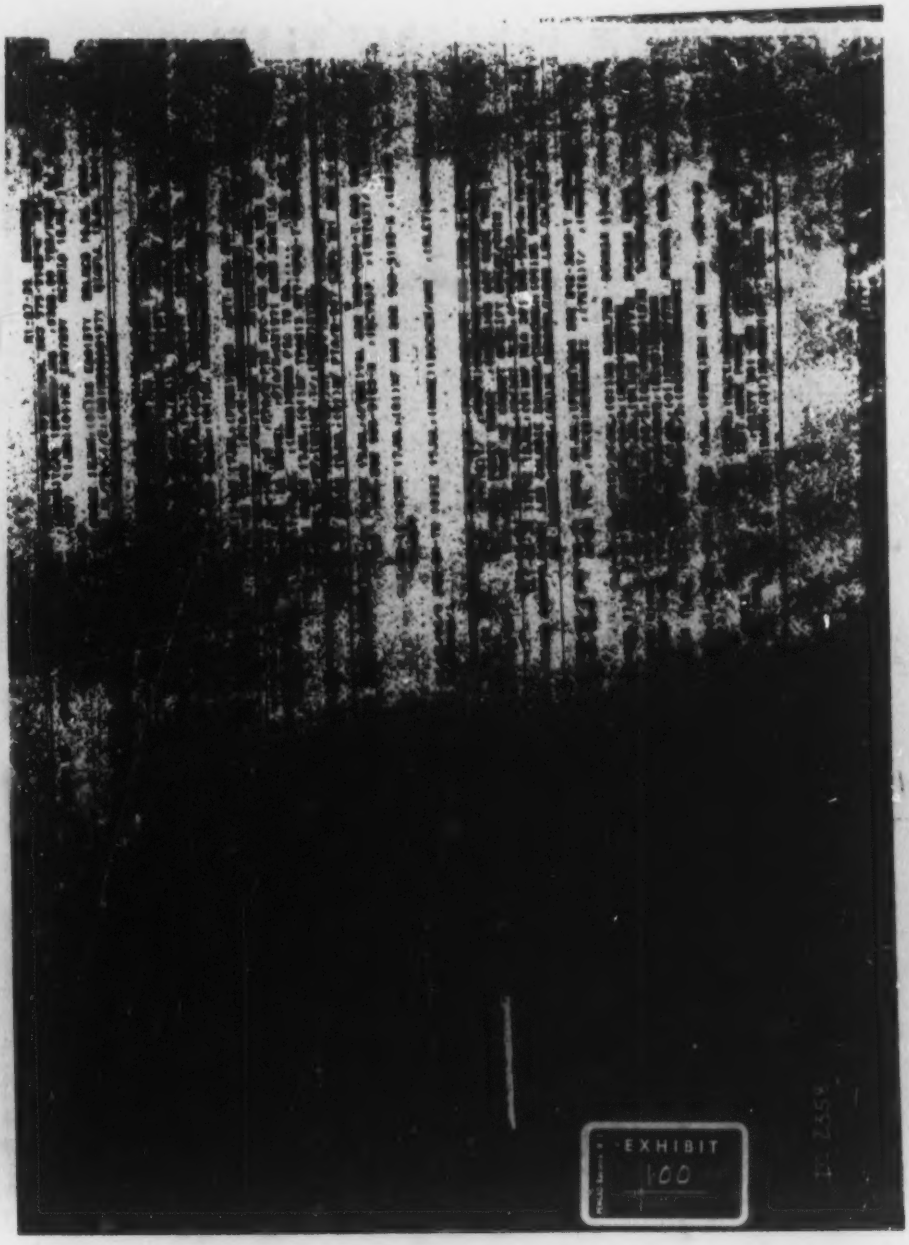
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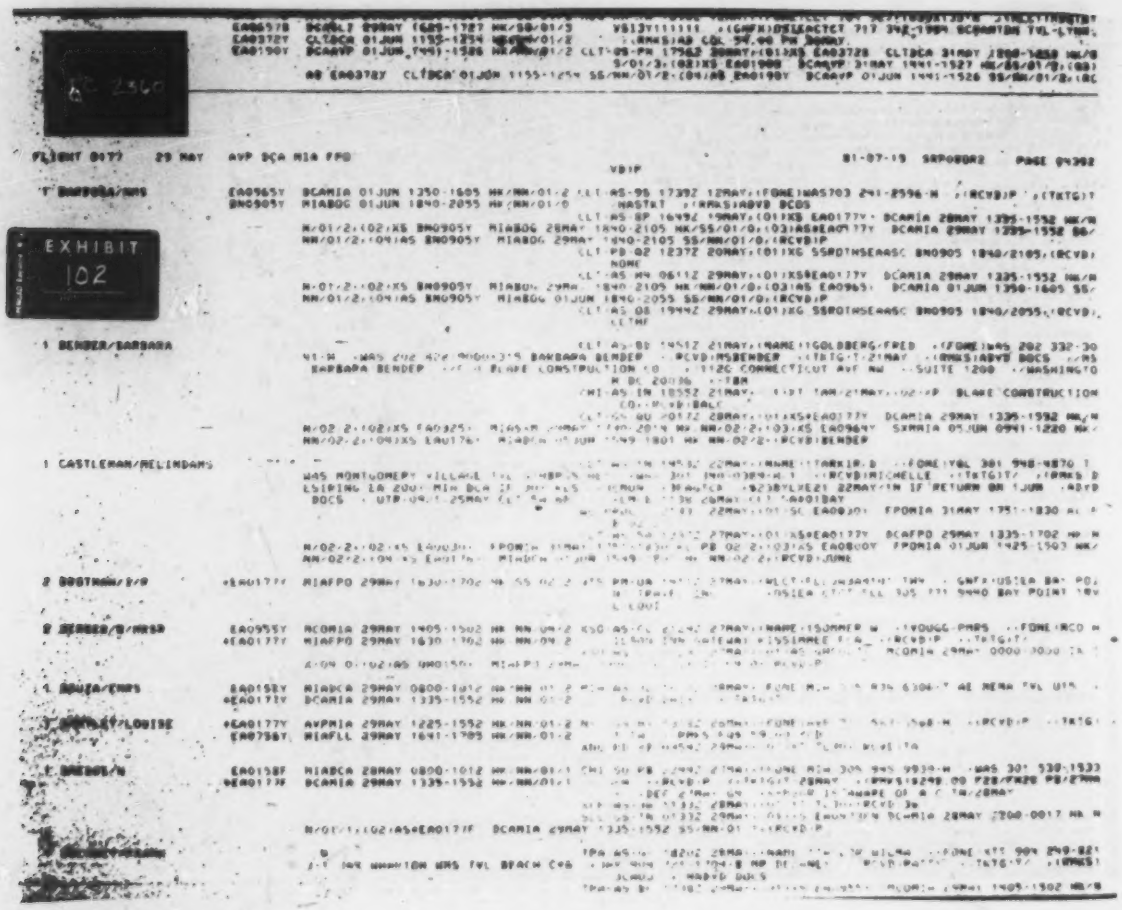

EXHIBIT
102

FLIGHT DATA 29 MAY AVP DCA MIA FPD 01-07-19 SRPOBDR2 PAGE 04302

VDIP

1 BARBOSA/MRS EA09657 DCAMIA 01JUN 1350-1605 HK/NN/01/2 CLT AS 99 17392 12MAY/(FONE)WAS703 241-2596-H /(RCVD)P /(TXTG)1
BN09057 MIABOG 01JUN 1840-2055 HK/NN/01/0 HASTKT /(RMKS)ABVD BCDS

CLT AS BP 16492 19MAY/(01)XS EA01779 DCAMIA 28MAY 1335-1552 HK/N
N/01/2/(02)XS BN0905Y MIABOG 28MAY 1840-2105 HK/SS/01/0/(03)AS EA01779 DCAMIA 29MAY 1335-1552 SS/
NN/01/2/(04)AS BN0905Y MIABOG 29MAY 1840-2105 SS/NN/01/0/(RCVD)P

CLT PD 02 12372 20MAY/(01)XS SSRDTHSEMASC BN0905 1840/2105/(RCVD)
NONE

CLT AS HK 06112 29MAY/(01)XS$EA01779 DCAMIA 29MAY 1335-1552 HK/N
N/01/2/(02)XS BN0905Y MIABOG 29MAY 1840-2105 HK/NN/01/0/(03)AS EA09657 DCAMIA 01JUN 1350-1605 SS/
NN/01/2/(04)AS BN0905Y MIABOG 01JUN 1840-2055 SS/NN/01/0/(RCVD)P

CLT AS 02 19442 29MAY/(01)XG SSRDTHSEMASC BN0905 1840/2055/(RCVD)
(LTNF

1 BENDER/BARBARA

CLT AS 02 19412 21MAY/(NAME)1GOLDBERG/FRED /(FONE)845 282 332-30
41-H /WAS 202 822 9000/3*S BARBARA BENDER /(RCVD)MSBENDER /(TRTG)T-21MAY /(RMKS)ABVD BDCS /(MS
BARBARA BENDER /(1 BLAKE CONSTRUCTION CO /(12C CONNECTICUT AVE NW /SUITE 1200 /WASHINGTO
N DC 20036 /-TBR
/MI AS IN 18552 21MAY/ 1/DT WAM/21MAY/02/P BLAKE CONSTRUCTION
CO/-RCVD:BALC

CLT AS GU 20172 28MAY/(01)XS$EA01779 DCAMIA 29MAY 1335-1552 HK/N
N/02 2/(02)XS EA09325 MIAGUM 29MAY 1140-2014 HK NN/02/2/(03)XS EA09649 SXMMIA 05JUN 0941-1220 HK/
NN/02/2/(04)XS EA01760 MIAPDM 05JUN 1149 1801 HK NN-02/2-/RCVD:BENDER

1 CASTLEMAN/MELINDAMS

WAS MONTGOMERY VILLAGE 1 /(1 HBP 2S HE /(RMKS)ABVD BCDS /(TRTG)T/ /(RMKS D
ESIRING LA ZOU: MIN DUR 2 JUN AS /(RMKS)ABVD BCDS /UTP-04-1 25MAY CLT 5A 02 /AA01DAY

CLT AS 01 22MAY/(01)SC EA09301 FPDMIA 31MAY 1751-1830 AS /
P 2
CLT AS 02 27MAY/(01)XS$EA01779 DCAFPD 29MAY 1335-1702 HK N
N/02/2/(02)XS EA00300 FPDMIA 31MAY 1751-1830 AS /P 02 2/(03)XS EA08UOY FPDMIA 01JUN 1425-1503 HK/
NN/02/2/(04)XS EA01760 MIAPDM 05JUN 1149 1801 HK NN-02/2-/RCVD:JUNE

2 BOSTROM/S/D *EA01779 MIAFPD 29MAY 1630-1702 HK SS 02 2 AS PM UA 1 27MAY/WLCT-DL 2W5A9*1Y TMY . GWF:USTLA BA: PD:
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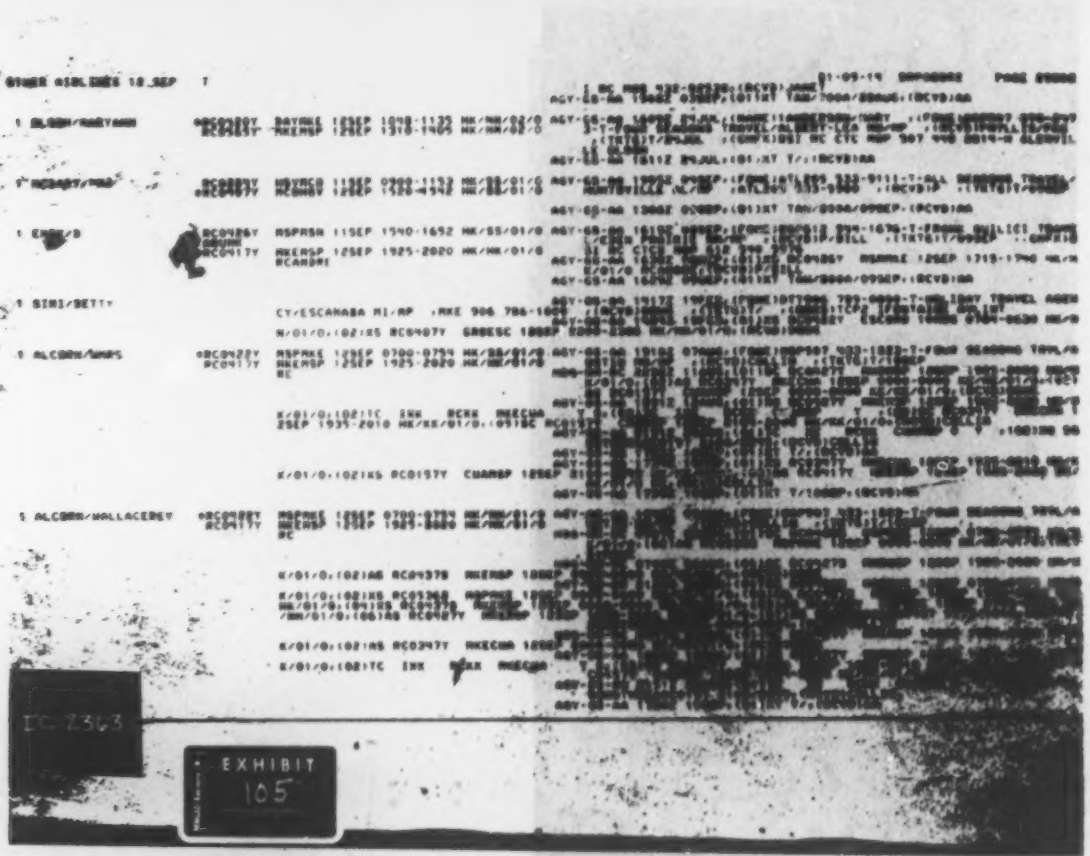
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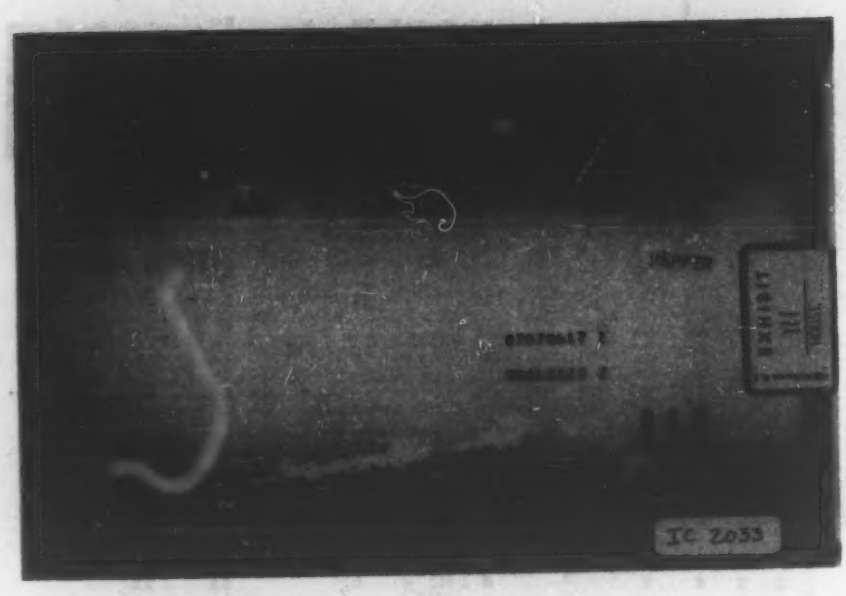
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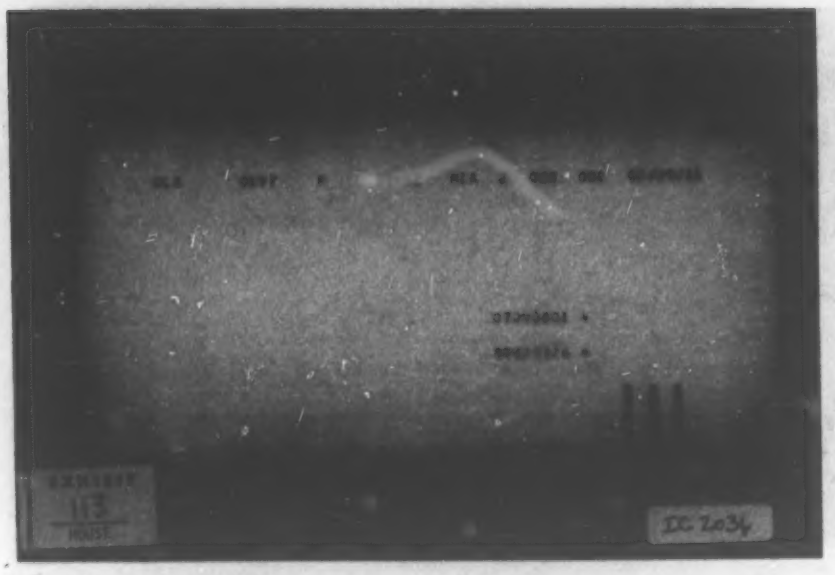
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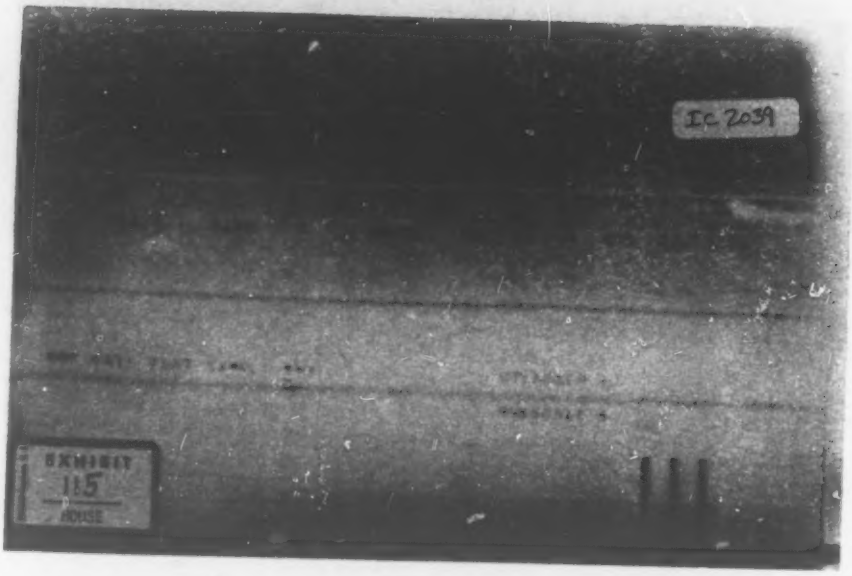
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IN SUM

1962 (c)

proscribes acquiring an interest in an enterprise (which affects interstate commerce) through a pattern of racketeering activity.

1963(a) provides for mandatory forfeiture of
(1) any interest acquired or maintained, and

(2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which was established, operated, controlled, in violation of 1962.

US v Martino held that only the interest in the enterprise is forfeitable, not the profits or proceeds from the enterprise.

* when are profits included in the interest of the enterprise? Is this to be analogized to "Retained Earnings" of a corporation? + of dividends paid out they no longer are forfeitable. because they no longer are in the "enterprise"?

~~Since~~ enterprise is given such a broad definition (1961 (4)) however by limiting only interests in enterprises to be forfeited makes some forms of forfeiture almost impossible by the literal reading of the statute

EXHIBIT 119 HOUSE

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ie. We understand when a business is formed it has certain assets + liabilities and owners. If an owner involves the business in RICO activities it is simple + enough to divest him of his interest in the business, ie 50% owner, forfeit 50% of the business.

But what about secret enterprises that don't have written partnership agreements or shareholder agreements + have no balance sheet + any proceeds or income received is immediately passed on to the players. This would mean that no interest ever remains long enough to become an interest in the enterprise + would never be subject to forfeiture, unless however the income was used to acquire another enterprise (see INV) + then the interest in the new enterprise is forfeitable.

1962 (a) proscribes,

using or investing any income derived from a pattern of racketeering activity (or the proceeds of such income) to acquire any interest in or the establishment of any enterprise.

again, 1963 (a) mandates the forfeiture of

(1) any interest acquired or maintained

(2) any interest in ... any enterprise established, operated, or controlled, in violation of 1962.

* To forfeit The Sea Dove (an enterprise) you must conclude that it was acquired by using income derived from a pattern of racketeering activity.

It surely was. However, if you now classify the moneys derived from Counts I + 6 as income then Martino says the other incomes are not forfeitable, only the interests in the enterprises. oy vei!

Special Verdict

Count 1 - each Δ forfeited $152,969.50
(receipts from 2 checks drawn on 4300 Rock Island Road Corporation)
1962(c)
1963
(defrauding IOTA + North Kane)

Count 6 - each Δ forfeited $270,000
(receipt from 58 forged checks)
1962(c)
1963
(defrauding Pension Fund)

COUNT 15 - each Δ forfeited $158,038.50
1962(a)
1963
as income derived from a pattern of racketeering + invested in acquisition of the SEA INN

Δ's memo in opposition to forfeiture #1

1. Sea Inn not property of Δ's

2. profits derived from the sale of the business are not forfeitable.
(that is $2,016 from the sale as profits)

I don't believe that the defendants are attacking the forfeitures which resulted from Counts 1 + Count 6, which are the 1962(c) counts.

1962(c) "(c) it shall be unlawful for any person employed by or associated with any enterprise (defined at 1961(4)), or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a "pattern of racketeering activity" (1961(5) = at least 2 acts of racketeering activity see 1961(1)) ..."

(In this case Mail/wire fraud + Theft from Pension Fund)
The so-called "PREDICATE ACTS"

1963(a) "whoever violates any provision of section 1962... shall be fined not more than $25,000 or imprisoned not more than twenty years, or both, and shall forfeit to the United States (1) any interest he has acquired or maintained in violation of section 1962, and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which he has established, operated controlled, conducted, or participated in the conduct of, in violation of section 1962.

1/ (4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity."

Factual Summation re: Forfeiture.

Count 1 - RICO 1962 (C)
the enterprise was the Romanos + 4900 Rock'N'Roll Inc
who defrauded IOTA + Martin Kane of $538,000.
234,000 was "paper trailed" to the purchase
of the SEA Inn of Hallandale which relates to
the Count 15 1962 (A) RICO (investment of
income derived from racketeering activity)

It is clear from the plain meaning of
section 1963 (a) (the forfeiture provision + penalty sec.)
that a Δ convicted of violating RICO
must forfeit :
(1) any interest acquired or maintained, and

(2) any interest in ... any enterprise
which he has established, operated,
controlled, conducted, or participated in,

in violation of Section 1962.

The violation in COUNTS 1 + 6 was
that of 1962 (C), conducting the affairs
of an "enterprise" through a "pattern of
racketeering activity." In Count 1
the "enterprise" took $38,000 from IOTA + KANE.
In COUNT 6 the same "enterprise" took (defrauded)
$540,000 from the proceeds fund via overdrawing
via false bank checks.
It would appear that these moneys are
interests acquired in violation of section 1962 (c).

U.S. v Martino (5th Cir 1981) was a case where
RICO (1962 (C)) was brought against
an enterprise of individuals who ran
an arson ring. The District Court
had forfeited the proceeds or profits paid

to the individuals by the defrauded insurance companies. The 5th Circuit in reversing the forfeitures held that only "interests in an enterprise" were forfeitable and that the proceeds did not qualify as such.

However the Court seems to ignore 1963(a)(1) which mandates forfeiture of interests acquired in violation of 1962. Certainly the arson receipts were interests acquired. To hold otherwise would appear to circumvent the entire congressional policy behind RICO forfeitures:

> "The aim aim is to divest the association of the fruits of its ill-gotten gains."
>
> See U.S. v Turkette at 29 Cr L at 3089 (USSC '1981)

are we playing games with semantics? what is the difference between an interest acquired by an enterprise and the income of an enterprise? The former forfeitable + the latter not.

Count 6 was also a 1962(c) RICO of which $40,000 was forfeited (Same rationale as Count 1)

Up until US v. Marino it seemed clear to me that Δ's were attacking only the 3rd forfeiture[1], via count 15, The SEA INN + the profits from its sale. They are aware of Marino but I am not sure of their position with respect to its effect on the 1st 2 forfeitures. Maybe they will just lay down and move on to the Sea Inn, a much simpler problem.
[I surmise that Neal Sonnett did not write the memos submitted by himself [redacted] and will add new theories not covered after reading them for the first time this morning]

THE SEA INN

Δ's took 234,000 from the Count 1 "moneys acquired" and purchased the SEA INN. This, in & of itself, is a violation of § 1962(a) which provides:

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[1] They do however strenuously attack the underlying RICO conviction which if reversed would cause the remission of the forfeiture.

"(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity ... to invest or use, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in or the activities of which affect, interstate or foreign commerce ..."

So it is illegal to take the proceeds from the Count 1 RICO (note that now they are called income which under Marino aren't forfeitable) and acquire an interest in or establish any enterprise affecting interstate commerce ie. The SEA INN ...

It is clear here that having the income is not illegal, but rather acquiring an additional interest in another enterprise is.

* So it is obvious that the SEA INN, as an interest obtained in violation of § 1962 may be forfeited ~~(1963(a)(1))~~ under both 1963(a)(1) and (a)(2).

Unfortunately the inquiry does not end here. The SEA INN was sold + a profit was realized ($82,016.00). You forfeited the original 239,000 plus the gain.

You can still forfeit some by the following rationale.

① DO not consider the gain as income, rather...

② rely on 1963 (a) with respect to forfeiting any interest acquired, in this case each brother acquired a 50% interest in the sea farm.

after being convicted of count 15 the court is mandated to forfeit their interest which is 50% of the equity.

The question then becomes when do you compute Δ's interest? at time of the RICO violation, indictment, or conviction? or some other time?

OPTION #2 See US v McNary 620 F. 2d 621 (9th Cir 1980) (apparently the only reported 1962(a) forfeiture case)

where it is given that Δ derived income from racketeering activity. He took this money + put into Business A. Then took that amount plus some out of A & put into Business B

(B&M manufacturing co.)

(Arts & Crafts travel service)

The court allowed the forfeiture of Δ's interest in both B+N Co. and Ports of Call.

With the Romanos they funnelled RICO moneys into CO's etc (paper trail) + ~~finally~~ then into the Sea Inn + finally that money was converted into a wrap around purchase money mortgage on the sale of the Sea Inn. This was proved by ~~the~~ govt accepted by the jurors (count 15). The govt has now merely forfeited Romano's interest in the original RICO moneys which merely are in a different form.

Or read 1963(a)(1) "forfeit any interest aquired" in conjunction with 1962(a)

Again, The 2 major reasons why Δ's attack the SEA INN forfeiture are:

(1) you can't forfeit property owned by LOUIS ROMANO, a non-defendant

(2) you can't forfeit profits on sale of SEA INN.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 78-364-Cr-ALH

UNITED STATES OF AMERICA

Plaintiff,

v.

THOMAS ROMANO and
FRANK ROMANO

Defendants.

ORDER AND MEMORANDUM OF LAW

I. FINDINGS OF FACT

THIS CAUSE came on to be heard on Defendants' Motion for Reconsideration of Defendants' Opposition to Order of Forfeiture.

THOMAS ROMANO and FRANK ROMANO were convicted of all counts of a twenty-one count indictment. The indictment resulted from the Romano's dealings involving the development and construction of a condominium project known as The Executive House, located in Inverrary, Florida. Counts 1 and 6 charged Defendants with violating the Racketeer Influenced and Corrupt Organizations Act (hereinafter RICO) 18 U.S.C. § 1961 et seq., more specifically for violating 18 U.S.C. § 1962(c) by conducting or participating in the conduct of an enterprise through a pattern of racketeering activity.[1] Count 15 charged Defendants with violating RICO, 18 U.S.C. § 1962(a) by acquiring an interest in an enterprise with income derived from a pattern of racketeering activity.[2]

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 120

DEPOSITION EXHIBIT
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Pursuant to § 1963(a), the penal section of RICO, provides that this court was mandated to forfeit[3]

> (1) any interest acquired or maintained in violation of Section 1962, and
>
> (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which has been established, operated, controlled, conducted, or participated in the conduct of, in violation of Section 1962.
>
> 18 USC 1963(a) (emphasis added)

On May 4, 1981 this court entered the Order and Judgment of Forfeiture which is the subject of defendants' motion for reconsideration. Pursuant to the Order defendants did forfeit:

D. DISCUSSION

Forfeiture Under Counts 1 and 6

It is this court's feeling that notwithstanding United States v. Marubeni, 611 F.2d 763 (9th Cir. 1980), United States v. Thevis, 474 F.Supp. 134 (N.D.GA. 1979), and United States v. Meyers, 432 F.Supp. 456 (W.D.PA.1977), cases relied on by Defendants, forfeiture of the proceeds of the checks which were acquired through a pattern of racketeering activity was proper. The Jury, in convicting Defendants of violating § 1962(c) found that the ROMANOS, a group of individuals associated in fact although not a legal entity, conducted their "enterprise" through a pattern of racketeering activity in that they, inter-alia, defrauded Martin Kane, I.O.T.A. Industries, Inc. and K.R.R., Inc. (Count 1) and defrauded the Teamster's Pension Fund (Count 6). The proceeds from the two checks acquired by the Count 1 RICO were directly traced to their personal bank accounts. Additionally it was conclusively proved that the ROMANOS received the proceeds of the (58) checks which form the basis of the Count 6 RICO. Section 1963(a)(1) provides for forfeiture of any interest acquired... in violation of Section 1962.

I find that the proceeds of all of the checks were "interests acquired" as that phrase is used in §1963(a)(1), the jury already making the determination that the checks were acquired in violation of § 1962(c). I base my conclusion on a reading of the statute itself, congressional intent and the traditional canons of statutory construction.

The best approach to interpreting a statute is to identify a purpose behind it and interpret the statute's meaning in light of such purpose. International Telephone and Telegraph Corporation v. American Telephone and Telegraph Company, 444 F.Supp 1148 (S.D.N.Y. 1978). Additionally, where the statutory language is ambiguous and where a literal interpretation would thwart the purpose of the overall statutory schema or lead to an absurd result, the court must look beyond the express language in order to effectuate congressional

intent. International Telephone and Telegraph Corporation v. General Telephone & Electronics Corporation, 518 F.2d 913 (9th Cir. 1975).

The purpose behind the RICO forfeiture section as succinctly stated in a recently decided Supreme Court case is "... to ~~direct~~ divest the association [the enterprise] of the fruits of its ill-gotten gains." United States v. Turkette, slip no. 80-808, 29 CRL 3086 (June 17, 1981). Further, Congress' declared purposed of RICO was "to seek eradication of organized crime in the United States... by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime." Id. at 3090. Given the plain meaning of 1963(a)(1) read in conjunction with 1962(c), which limits its scope, coupled with the stated purpose of severing racketeers from their "ill-gotten gains," forfeiture of the proceeds of the various fradulently obtained checks would be proper. Other courts have disagreed.

In United States v. Marubeni American Corporation, 611 F.2d 763 (9th Cir. 1980), defendants were convicted of conducting the affairs of an enterprise through a pattern of racketeering activity in violation of § 1962(c).[6/] The corporate defendant, Marubeni American Corporation (Marubeni) caused bribes to be paid to a local Alaskan official to obtain confidential bidding information on contracts for telephone cable. Marubeni and Hitachi Cable Ltd. (Hitachi) used this information to underbid their competition thereby winning the contracts. Subsequently with the aid of the brided Alaskan official Hitachi and Marubeni sold only higher priced cable. The government sought forfeiture of "any and all sums paid or payable" to either or both for their performance of the contracts.[7/] The issue presented in

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Marubeni was whether those monies were forfeitable interests under RICO. 8/ The 9th Circuit, in upholding the District Court, held that the term interest as it is used in §1963(a)(1) means something other than income derived from a pattern of racketeering activity. In its reasoning the court relied principally on what it termed "1% investment Exception" of § 1962(a). § 1962(a) provides in part:

> A purchase of securities on the open market for purposes of investment, and the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern of racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

18 U.S.C. § 1962(a).

Since Congress established a specific exemption for the investment of racketeering income in corporate stock, 9/ where no control could be exerted over the corporation, they could not have intended income in and of itself to be forfeited under any circumstances.

> "We are convinced that Congress intended to forfeit racketeering income only after it was invested 'in an enterprise' in violation of § 1962(a)." 74 at p.

Under Marubeni racketeers will forfeit their interest in their initial enterprise and their interest in their new enterprise, which was acquired with the income derived from the first. If, after acquisition of the second enterprise, in violation of § 1962(a), excess proceeds remain, those proceeds will be beyond the scope of forfeiture under § 1963. It will not take long

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before racketeers figure out that all their racketeering income should be invested in legitimate non-enterprises such as gold certificates, real estate or even government bonds. This investment strategy would place all the ill-gotten gains beyond forfeiture and as I perceive it leads to an absurd result not supported by the language of the statute or its purpose.

In United States v. Thevis, 474 F.Supp. 134 (N.D. GA. 1979) defendants were charged with violating § 1962(c). The enterprise alleged was "a group of individuals associated in fact with various corporations to operate a pornography business through certain unlawful means..." Defendants attacked the constitutionality of § 1963 for vagueness and overbreadth. In dismissing the constitutional challenge Judge Harold Murphy discussed the two pronged forfeiture provisions of § 1963(a) in relation to the section that defines its limits, § 1962. In essence what Judge Murphy ultimately did was to judicially limit the scope of forfeitures under § 1963(a)(1) solely to substantive violations of §§ 1962(a) and 1962(b) ignoring § 1962(c). He reasoned that § 1962(a), which proscribes acquiring an interest in, establishing or operating an enterprise with racketeering income, [10/] and § 1962(b) which proscribes acquiring or maintaining any enterprise or control of an enterprise, are compatible with § 1963(a)(1) which would cause forfeiture of those "interests acquired" in violation of § 1962. I certainly agree that §§ 1962(a) and 1962(b) proscribe acquiring interests in enterprises and when read in conjunction with 1963(a)(1) it is the racketeer's interest in the enterprise that will be forfeited. It would indeed be a "strained construction" of 1963(a)(1) to include the fruits and profits of those enterprises in the forfeiture given a violation of either 1962(a) or 1962(b). However, the analysis then moves on to the effect of 1963(a)(2) on violations of §1962. The issue that was ignored and that is

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controlling in the case at bar is the effect of § 1963(a)(1) on a § 1962(c) conviction. The statute provides that § 1963(a)'s scope is directed to violations of § 1962. Nowhere in the statute or legislative history is it suggested that 1962(c) should not be equally considered. § 1963(a)(1) does not limit itself to violations of § 1962(a) or (b), but rather applies to all violations of § 1962. In light of the void in Thevis I will extend the analysis to consider the effect of 1963(a)(1) on a violation of 1962(c).

The proscribed activity in § 1962(c) is not the acquisition of an interest in an enterprise, as is the case with 1962(a) & (b), but rather conducting an established enterprise, be it licit or illicit,[11/] through a pattern of racketeering activity. Under § 1963(a)(1) the court must forfeit the interests acquired as a result of conducting the enterprise. Since the enterprise is already in existence the language of the statute suggests that something other than what already exists will be forfeited. Since § 1962(a) & (b) deal with the acquisition of enterprises which would be subject to forfeiture under 1963(a)(1) & (2), and 1963(a)(2) would cause a forfeiture of the 1962(c) enterprise itself, 1963(a)(1) read in conjunction with 1962(c), in light of all the other sections, would seem to work a forfeiture of property other than the enterprise. That other property is interests acquired by the enterprise. In this case the enterprise acquired interests in cash proceeds and it is those proceeds that are subject to forfeiture. The fact that the term interest may indicate a part of a larger whole does not persuade me that the 1963(a)(1) interest applies only to an enterprise, for if it is income that is generated from the § 1962(c) enterprise then each racketeer will simply forfeit his part of the whole of those proceeds, i.e., each ROMANO brother will forfeit his 50% interest in the cash proceeds.

Thevis then goes on to discuss the relation § 1963(a)(2) plays in the scheme of a RICO forfeiture. The determination was made that § 1963(a)(2) would work a forfeiture of § 1962(a) & 1962(b) interests but that § 1962(a)(2) really "complements § 1962(c) in that it requires forfeiture of the defendants' interest in the enterprise whose affairs are conducted in violation of § 1962."[12/] Again, I agree that 1963(a)(2) would work a forfeiture of the 1962(c) enterprise. As a matter of law, I believe that 1963(a)(2) only operates to the detriment of enterprises.[13/]

In sum, Thevis implicitly holds that forfeiture under § 1963(a)(1) is available only to violations of §§ 1962(a) and 1962(b), and that forfeitures under § 1963(a)(2) would apply to §§ 1962(a), 1962(b) and 1963(c). This judicial gerrymandering of the statute, although well reasoned, flies in the face of the statute itself. § 1963(a)(1) by its very terms applies to violations of § 1962, not merely §§ 1962(a) and 1962(b). Had Congress intended this result it could have so stated.

Finally, Thevis relies on the oft quoted passage coined in United States v. Meyers, infra., which at first blush appears to stand for the proposition that a § 1963(a)(1) forfeiture does not include fruits or profits, wherein it was stated that:

> "A strained construction of § 1963 might regard profits or fruits received from the enterprise as available revenue which might be used as funds to be reinvested in the enterprise or otherwise to influence its operation.
>
> However, the more natural interpretation is that an 'interest' is akin to a continuing proprietory right in the nature of a partnership or stock ownership (or holding a debt or claim) rather than mere dividends or distributed profits."
>
> at p. 461

This court feels no strain in including the proceeds of the fraudulently received checks in the forfeiture award. It should be noted that the above passage was dicta relating to a moot issue. Further, it appears that the passage has been taken out of context by the courts that quote it. Before ~~reading~~ finding the "natural interpretation" the Meyers Court, in discussing 1963's effect on 1962 stated:

> "Forfeitability extends not only to any 'interest' in the enterprise, but to any 'claim against, or property, or contractual right of any kind' affording a source of influence over the enterprise."
>
> Id. at p. 461

This ~~statement~~ phrase closely tracks the language of § 1963(a)(2), leading to the conclusion that Meyers was concerned with the bounds of forfeiture under 1963(a)(2), not 1963(a)(1). In that context I agree that it would indeed be a strained construction of § 1963(a)(2) to include fruits or profits in the forfeiture award. Even in ~~United States~~ Marubeni the government conceded that § 1963(a)(2) applies only to interests in the enterprise.[4] The real strain encountered by me has been how to exclude fruits or profits derived from a 1962(c) enterprise when sought under 1963(a)(1), notwithstanding Meyer's "natural interpretation" which I believe is inapposite to the case at bar.

If the income, proceeds, profits or fruits of the RICO(c) enterprise are not "interests acquired" then what are they? ~~In sum~~ I truly believe and find that 1963(a)(1) does operate to divest racketeers of the fruits of their 1962(c) enterprise.

On June 19, 1981 the Fifth Circuit, in deciding a case of first impression in this Circuit held that § 1963 would not be applicable to the fruits and profits obtained from a pattern of racketeering activity. United States v. Martino, slip Nos. 78-3611, 78-5260, and 79-2606 (June 19, 1981). In so holding the court adopted the holdings in Marubeni, Thevis, and Meyers. Herein lies the rub.

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In Martino, the defendants were charged and convicted of conducting the affairs of an enterprise (a group of individuals associated in fact to defraud fire insurers) through a pattern of racketeering activity in violation of § 1962(c). 14/ Defendants each received proceeds from insurance policies which were purchased prior to insured structures being torched. The jury returned verdicts ordering forfeiture of the insurance proceeds collected by the defendants. The government took the position that income or profits from an illegal enterprise are forfeitable under § 1963. Defendants contended that § 1963 only applies to interests in the enterprise. The court defined the issue as:

> "Whether the term interest in 18 U.S.C. § 1963(a) includes income or receipts from racketeering activity."

The court, relying on the Marubeni/Thevis/Myers triad held in the negative but made no distinction between §§ 1963(a)(1) and § 1963(a)(2). In any event, since 1963(a)(2) clearly applies only to interests in enterprises I find that the court implicitly ruled on 1963(a)(1)'s effect on 1962. Since the court adopted Thevis' analysis it would appear that today the law in the Fifth Circuit is that § 1963(a)(1) is inapplicable to § 1962(c). I neither like nor agree with this result for the reasons I previously expressed, but am duty bound to follow Fifth Circuit precedent. Martino being directly on point with the case at bar must control the outcome herein. Therefore, it appears that I must either modify my previous Order and Judgment of Forfeiture or affirm same in the face of stare decisis.

Before vacation is made one final inquiry must be made. That is, how to classify the proceeds in question, for if they are distributed, as if a corporation had distributed dividends or stock, then they are beyond the grasp of the government.

However, if those proceeds are retained by the enterprise, and treated as equity or assets in balance sheet terms, they become a part of the enterprise and are forfeitable under even the most conservative view of § 1963. The real problem, and one which was recognized by the Martino panel, is that in the case of the more broadly defined enterprises, i.e. individuals associated in fact, there is often nothing to forfeit. Id. at p. 8275. I believe that the retained earnings of this type of enterprise are forfeitable even in light of Martino.[15/] Corporations and partnerships by their very nature allow for identification of assets with relative ease by way of the annual balance sheet and income statement, making forfeiture of the enterprise workable. However, the associational type enterprises present a unique problem in that there may be no real accounting structure to audit, and identification of its assets may be almost impossible.

These types B enterprises have neither bank accounts nor assets in their own name such as "Enterprise Associates." By their very loose nature the enterprise's income must be in the possession of the individual members, which could give the appearance of being distributed. Webster's defines "distribute" as "to divide among several or many." Websters New Collegiate Dictionary, 1979 p. 330. Although an individual member may possess the proceeds, if it is the enterprise that controls same then those proceeds are retained. Whoever ultimately controls the funds defines whether they are retained or distributed. If the funds are put aside solely for future ventures by the enterprise, then they are retained and forfeitable. If they are at the disposal of the whims of the individual members who possess them then they are distributed. This is a question of fact. To place the retained income of these enterprises beyond the reach of forfeiture would subvert RICO's aim of separating the racketeer from his ill-gotten gain.

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Since I previously believed that it made no difference with respect to forfeiture whether the proceeds were retained or distributed I did not have the parties address the point. However, since it now appears that such a determination will control my ultimate decision I direct the government by way of memorandum to succinctly show me both legally and factually whether the ROMANOS' enterprise retained the proceeds derived counts 1 and 6. The government shall have through and including July , 1981 to submit same. Thereafter Defendants shall have 10 days to respond. The parties shall limit their argument solely to the issue of retention or distribution of the proceeds of the checks.

(3) to dismiss all claims without prejudice in order to permit full exhaustion.

[8] Appellants seem to contend for the first course of action; while forthrightly conceding the presence of a majority of unexhausted claims in their action, they assert, without differentiation among their claims, that "Appellants are clearly entitled to judicial review as a matter of right, the administrative process having been exhausted" (emphasis added). We must reject such a frame as merely walking through the process, one which omits form over substance and views administrative procedures as merely a corridor to be traversed on the way to the courtroom. Such an approach would be equally consistent with commencing one out of breast to the administrators and an entirely different one to the courts. In no sense whatever is this the "exhaustion." Exhaustion contemplates that the real issues in controversy be presented to the administrator, that he be given the opportunity to apply his special knowledge and experience to them, that he be permitted to correct his own errors, and that a court be had to the courts only thereafter. To adopt the approach advocated by appellants would be to reduce administrative proceedings to mere charades. We decline to do so.

On the chance that appellants are contending for the second approach as well (or instead) we discuss it also, though it is difficult to see why appellants would [illegible] unexhausted claims if they did not [illegible] to run to jump on them.[7] Though [illegible] contemplates it is not the case here, the situation may sometimes arise [illegible] claims are presented whose exhaustion is doubtful or disputed. What should the court do with such claims if it concludes that they were not exhausted? If it dismisses them with prejudice, the effect at the trial level is the same as if appellant had abandoned them; they will not be considered. We assume that appellants do not contend for this result. If, on the other hand, the court dismisses unexhausted claims without prejudice and goes on to consider exhausted ones on their merits, the stage is set for multiple, piecemeal appeals arising out of one fact situation, a most undesirable result from the standpoint of conserving limited judicial resources. Even so, there may be situations in which such a procedure might be an appropriate exercise of the court's discretion, and what we say here is not intended to disapprove of it in advance and in every case whatever.[8]

This brings us to the third course of action, that followed by the court here: dismissal without prejudice of all claims in a "mixed" complaint to permit complete exhaustion of all before proceeding on any. We approve this procedure as the proper course in the usual case. In addition to avoiding the deliberation of the other possible courses of action, noted above, it gives effect to numerous positive values: the avoidance of piecemeal litigation, the husbanding of limited judicial resources, the consideration of all claims in context by such tribunal at one time. Moreover, though concerns of federalism are not presented here, a certain analogous deference, perhaps cognate with comity, is due the special competence, if not the status, of administrative bodies. Nor, in logic, do we perceive any unfairness in requiring one who insists on proceeding on some of claims, exhausted and unexhausted, to the court, to first present them all to the tribunal whose decision he attacks before complaining of its decision therefore.

AFFIRMED.

7. Cases may be imagined, as one example, in which the appellant appears clearly entitled to prevail on an exhausted issue or issues ruling the case.

8. The practical effect of the approach is, of course, always achievable by an appellant on the courts from an administrative ruling. He need do no more than advance exhaustible issues only in his complaint, bringing none that were not clearly presented to the administrator.

EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 121
United States Senate
EXHIBIT 121 HOUSE

F.9.

UNITED STATES of America, Plaintiff-Appellee,

v.

Ruth Lamont PEACOCK, Yen Lee Peacock and Harvey Coleman Peacock, Defendants-Appellants.

Nos. 79-5202, 80-7007.

United States Court of Appeals, Fifth Circuit.

Aug. 27, 1981.

Three defendants were convicted in the United States District Court for the Middle District of Georgia, J. Robert Elliott, J., of racketeering, mail fraud and obstruction of justice, arising out of numerous arsons, the fraudulent collection of insurance proceeds, and three murders. Defendants appealed. The Court of Appeals, James C. Hill, Circuit Judge, held that: (1) the evidence was sufficient to sustain all of the convictions except on one racketeering charge against one defendant and one mail fraud charge against two defendants arising out of one of the murders, (2) defendants were not placed twice in jeopardy, (3) out-of-court statements of coconspirators were admissible under exceptions to the hearsay rule, and (4) the Racketeer Influenced and Corrupt Organizations Act did not authorize the forfeiture of the profits of the crime, but it applied only to interests in a criminal enterprise.

Affirmed in part and reversed in part.

1. Commerce ⇐82
Post Office ⇐49(11)

In prosecution for racketeering and mail fraud, arising out of three defendants' participation in numerous arsons and their fraudulently obtaining insurance proceeds resulting from the fires, evidence sustained all convictions except for one indictment of arson as to one defendant. 18 U.S.C.A. §§ 1341, 1961(a).

2. Post Office ⇐49(11)

In prosecution for mail fraud arising out of defendants' attempt to collect proceeds of life insurance on person whom they allegedly murdered, evidence was sufficient to convict defendants of murder under Georgia law. Ga.Code, § 26-1101(a).

3. Commerce ⇐82.5

Evidence did not have to show that defendants participated in each and every racketeering act charged to convict defendants of racketeering, but rather had only to show that each defendant participated in at least two of the racketeering acts. 18 U.S.C.A. § 1961(5).

4. Criminal Law ⇐29(1)

It did not violate double jeopardy clause to impose consecutive sentences for racketeering counts and mail fraud counts which also served as racketeering acts in racketeering counts. 18 U.S.C.A. §§ 1341, 1961(5).

5. Criminal Law ⇐627(10), 629(1), 662(1)

In prosecution for mail fraud, racketeering and obstruction of justice, admission of four out-of-court declarations by coconspirators did not violate rules of hearsay or defendant's right to confrontation, since statements were admissible either as statements against penal interest, statements by coconspirator during course and in furtherance of conspiracy, or statements of present sense impressions. Fed.Rules Evid. Rules 801(d)(2)(E), 803(1), 804(b)(3), 6), 28 U.S.C.A.

6. Criminal Law ⇐624(1)

Coconspirator's statements are admissible even when no conspiracy is charged, but there is independent evidence of concert of action in which defendant was participant. Fed.Rules Evid. Rule 801(d)(2)(E), 28 U.S.C.A.

7. Criminal Law ⇐1166.9

In prosecution for, inter alia, mail fraud arising out of defendants' alleged attempt to collect proceeds of life insurance policy on person whom they had murdered, admission of evidence concerning statement made by murder victim was not prejudicially erroneous where mail fraud conviction was reversed for lack of evidence.

8. Indictment and Information ⇐117

Indictment should be read as a whole to determine its meaning.

9. Forfeitures ⇐3

Indictment which meticulously set out arsons that defendants had allegedly committed and precise amount of insurance proceeds that defendants gained from arsons gave defendants ample notice of property that government sought to have forfeited under Racketeer Influenced and Corrupt Organizations Act. 18 U.S.C.A. § 1963(a); Fed.Rules Cr.Proc. Rule 7(c)(2), 18 U.S.C.A.

10. Forfeitures ⇐3

Forfeiture provision of Racketeer Influenced and Corrupt Organizations Act did not authorize forfeiture of profits of crime, but it applied only to interest in criminal enterprise. 18 U.S.C.A. § 1963(a).

Thomas M. Flournoy, Jr., Columbus, Ga., for Hoyle and Vera Peacock.

John C. Swearingen, Jr., Columbus, Ga. (Court-appointed), for Harvey Peacock.

Edgar W. Ennis, Jr., Asst. U. S. Atty., Macon, Ga., for plaintiff-appellee.

Appeals from the United States District Court for Middle District of Georgia.

Before RONEY, HILL and FAY, Circuit Judges.

JAMES C. HILL, Circuit Judge:

A jury found beyond a reasonable doubt that Harvey, Hoyle, and Vera Peacock were members of a criminal enterprise that engaged in arson, murder, mail fraud, and obstruction of justice in order to defraud certain insurance companies. The twenty-four count indictment charged the Peacocks with racketeering, 18 U.S.C. § 1962(c) [Count 1], mail fraud, 18 U.S.C. § 1341 [Counts 2-23], and obstruction of justice, 18 U.S.C. § 1510 [Count 24].

Harvey Peacock was found guilty on all twenty-four counts, sentenced to 35 years imprisonment, and fined $14,000. Hoyle was found guilty on Counts 1 and 7-23. He was sentenced to 35 years imprisonment and fined $13,000. Vera was found guilty on Counts 1, 2 and 7-13. She was sentenced to 25 years imprisonment and fined $5,000. The same jury returned special verdicts against each of the defendants requiring them to forfeit $237,055 worth of insurance proceeds that they acquired through their pattern of arson and murder. 18 U.S.C. § 1963(a). The district court's order and judgment of forfeiture was issued as a general money judgment against the defendants.

The defendants raise numerous points on appeal. Essentially, their arguments focus on three points. First, appellants assert the evidence is insufficient to convict them on various counts. Second, appellants contend that both the Confrontation Clause of the Sixth Amendment and the rule against hearsay were violated by the admission of "testimony" from deceased declarants. Third, appellants argue that the forfeiture provisions of the Racketeer Influenced and Corrupt Organizations statute (RICO), 18 U.S.C. § 1963, are not applicable to the insurance proceeds which they acquired. Further, they urge that even if applicable, RICO does not authorize the district court to issue a general money judgment.

With three exceptions, we affirm the jury's verdict. First, the evidence is insufficient to convict Vera Peacock of the arson at 2602 Third Ave. in Columbus, Georgia. Second, the evidence is insufficient to convict Harvey and Hoyle for the murder of Ruth Elaine Peacock. Accordingly, the mail frauds based on the murder, counts 16-23, are reversed. Third, as we are bound by *United States v. Martino*, 648 F.2d 367 (5th Cir. 1981) we must reverse the district court's forfeiture order. In all other respects, we affirm the jury's verdict.

I. *The Peacocks' Scheme*

Our presentation of the evidence will follow the structure of the indictment.

A. *Count 1: The Racketeering Enterprise*

Count 1 charges a violation of 18 U.S.C. § 1962(c). To obtain a conviction under

§ 1962(c) it must be shown that the defendants conducted the affairs of an enterprise through a pattern of racketeering activity. A pattern of racketeering activity is defined by statute as at least two acts of racketeering activity which occur within ten years of each other. 18 U.S.C. § 1961(5). Racketeering activity is defined as any of a large number of both state and federal crimes which are listed in § 1961(1).

Here, the racketeering enterprise was, in essence, an arson ring. It was comprised of thirteen individuals associated in fact for the purpose of defrauding certain insurance companies. In its pursuit of profit this enterprise allegedly engaged in a pattern of racketeering activity which included ten arsons, one murder, 22 mail frauds, and an obstruction of justice which involved two additional murders. As will be seen, the enterprise's "business methods" reflected a sophisticated level of activity not unlike an efficiently run small business.

1. *The Arsons*

Section 3(a) of Count 1 charged that on September 12, 1971 Harvey, Hoyle, and Vera Peacock, aided and abetted by one another, and by Ray Peacock, a now-deceased son of Harvey and Vera, burned a house located at 2602 Third Avenue in Columbus, Georgia with intent to defraud the State Automobile Insurance Company. Ga. Code § 26-1904. The city of Columbus fire marshal testified that the cause of the fire was "electrical"; "a penny behind the fuse." On February 19, 1970 Hoyle acquired fire coverage on this house for $5,000. This amount was subsequently paid to both Hoyle and Vera, who held a mortgage on the house. At the time of the fire, Ray Peacock and his wife occupied 2602 Third Avenue. Hoyle subsequently admitted to one Ruth Rhodes that he and his father, Harvey, were responsible for this arson.

In what was to become a well-established alibi pattern, George Cumble, a named but unindicted member of the criminal enterprise, Hoyle and Ray Peacock and their three wives were on a vacation trip in Panama City, Florida at the time of the fire. Both Harvey and Vera testified that they were babysitting for their granddaughter at the time of the fire.

Neither Harvey nor Hoyle challenge the sufficiency of the evidence to convict them for this arson.

Section 3(b) of Count 1 charged that on June 1, 1972 Harvey, Hoyle, and Vera Peacock burned a house located at 2913 Bradley Circle with intent to defraud the Union Fire Insurance Company. Harvey and Vera had $25,500 of insurance coverage; $13,500 on the house and $12,000 on the unscheduled personal property. Harvey and Vera were subsequently paid $27,541.81 for their loss. One of Harvey's co-conspirators, Butch LeJeune, later told another of Harvey's co-conspirators, Richard Crane, that Crane should have handled "his fire" like Harvey handled the one at Bradley Circle.

The testimony of the city fire marshal established that the apparent cause of fire was defective wiring. This conclusion was based on the discovery that the main panel had only two thirty amp breakers for a seven room house. Other evidence revealed that George Cumble, the next door neighbor, found Harvey's sons, Ray and Hoyle, "cleaning" the walls with fumes all the afternoon before the fire. Harvey and Vera were on a vacation trip to the far West and Mexico at the time of the fire.

Neither Harvey nor Hoyle challenge the sufficiency of the evidence to convict them for this arson.

Section 3(c) of Count 1 charged that on January 31, 1972 Harvey and one Sonny Marion Hobbs, aided and abetted by each other and by Ray Peacock and one Mickey Jerome Miller burned a house at 516 Twenty-second Avenue in Phenix City, Alabama with intent to defraud the State Farm Fire and Casualty Company. Ala.Code § 13-3-30. Hobbs was in the process of buying this house, in which he lived, from Harvey Peacock at the time of the fire. Hobbs worked for Harvey as a truck driver.

Hobbs had acquired $12,000 of coverage on the house itself, and $6,000 on its contents. He collected two checks; one made

payable to him for $6,750 and one made payable to both him and Ray Peacock for $12,500. Hobbs and Ray Peacock endorsed both checks.

Mickey Jerome Miller, a named but unindicted participant, testified that Harvey Peacock hired him to burn the 515 Twenty-second Avenue home for $200. Miller later met with Harvey and Hobbs regarding his payment. Harvey was in Lakeland, Florida attending to his trucking business when the fire occurred.

Harvey does not challenge the sufficiency of the evidence to convict him for this arson.

Section 3(d) of Count 1 charged that Harvey Peacock and Sonny Hobbs, aided and abetted by each other, and by Ray Peacock, committed mail fraud in order to obtain the insurance proceeds described in section 3(c) of Count 1. 18 U.S.C. § 1341.

Harvey does not challenge the sufficiency of the evidence to convict him for this mail fraud.

Section 3(e) of Count 1 charged that on February 28, 1972 Harvey and Vera, aided and abetted by each other, and by Clarence Peacock and Mickey Miller burned a house at 3084 Fourth Ave. in Columbus, Georgia with intent to defraud the Interstate Fire Insurance Company. Clarence Peacock, Harvey's father, and Mary Nell Peacock, Harvey's stepmother, were the occupants of this home.

Clarence Peacock had $9,500 of coverage on the home itself, and $6,000 on its contents. Clarence Peacock received checks for his fire losses; one for $3,500 and one for $2,477.81.

The investigative report showed that the fire's apparent cause was the release of an electric blanket. However, Mary Nell Peacock testified that she heard her husband, Clarence, and Harvey discussing insurance on the house and that she "expected the house to be burned." She also testified that both Harvey and Vera told her to move clothes and other items out of the house before her trip to Florida. Clarence and Mary Nell Peacock were in Florida at the time of the fire.

Again, Mickey Miller testified that he was hired by Harvey to burn the home for $200. Miller further testified that he poured gas throughout the house before igniting it with a match. Once again, Harvey was on a trip for Watkins Motor Lines, his trucking business, when the fire occurred.

Harvey does not challenge the sufficiency of the evidence to convict him for this arson.

Section 3(f) of Count 1 charged that on December 12, 1972 Harvey, aided and abetted by one A.L. Gravitt, Jr. burned a home at Rural Route 1, Box 228A in Russell County, Alabama. This unfinished and unoccupied home belonged to Jack Hobbs. Harvey's motive for this arson was not money; it was revenge.

Gravitt testified that Harvey wanted to "burn out" Jack Hobbs because of a disagreement regarding payment for certain building materials Hobbs had allegedly acquired from Harvey. Gravitt further testified that he and Harvey thoroughly doused Hobbs' home with wood alcohol and burned it.

Harvey does not challenge the sufficiency of the evidence to convict him for this arson.

Section 3(g) of Count 1 charged that on December 30, 1973 Harvey and Vera, aided and abetted by each other, and by Mickey Jerome Miller, burned a home at Rural Route 3, Box 221, in Phenix City, Alabama with intent to defraud the Southern United Fire Insurance Company.

The fire insurance was originally taken out by Ray Peacock but was changed to Vera's name when she assumed ownership. Southern United Fire Insurance paid Vera $6,500 for her loss. The proof of loss statement indicated that the cause of the fire was unknown.

Once again, however, Mickey Miller explained the cause of the fire. He testified that Harvey hired him to burn the home at Rural Route 3 for $200.

Harvey does not challenge the sufficiency of the evidence to convict him for this arson.

Section 3(h) of Count 1 charged that on May 4, 1974 Harvey, aided and abetted by Joseph Allen ("Butch") LaJune burned a house at 3815 East Britt David Road in Columbus, Georgia with intent to defraud the Consolidated American Insurance Company. Joseph LaJune received insurance payments of $22,500 and $21,250.

After checking the house for possible accelerants and sending several samples to the lab, Lt. William Highsmith, an arson investigator, concluded that the cause of the fire was arson in the first degree. A.L. Gravitt, who also testified about the arson charged in 3(f), testified that he heard LaJune and Harvey discussing plans to burn the home. He also testified that LaJune went over the preparations for the fire with him.

Harvey does not challenge the sufficiency of the evidence to convict him for this arson.

Section 3(i) of Count 1 charged that on July 5, 1974 Harvey, Vera, Hoyle and Roger Therrien aided and abetted by each other and by George Cumbie burned a house at 2046 Grant Road in Columbus, Georgia with intent to defraud the Aetna Insurance Company. George Cumbie lived in the home, which was owned by either Vera or Hoyle, at the time of the fire. Aetna paid him $18,470 for his loss.

Cumbie testified that Harvey planned the arson. He testified that Harvey approached him about living in the house and instructed him to get insurance on the home and that a fire would take place while Cumbie was out of town. Cumbie was told he would receive a cut of the insurance proceeds and that Harvey would provide the money to pay the premiums. Cumbie also testified that Hoyle and Roger Therrien helped him move some appliances out of the house several days before the fire. Finally, the evidence showed that the insurance check was made out to both Cumbie and Hoyle and that they cashed the check together, each taking a portion of the proceeds. Harvey testified he was in Florida for a family reunion at the time of the fire.

Neither Harvey nor Hoyle challenge the sufficiency of the evidence to convict them of this arson.

Section 3(j) of Count 1 charged that on November 16, 1974 Harvey, Vera, Hoyle, and Roger Therrien, aided and abetted by each other and by Richard Crane, Jessie Crane and Joseph LaJune burned a house, at 701 Thirteenth Ave. in Phenix City, Alabama with intent to defraud the Employers Casualty Company. The house was owned and occupied by Richard and Jessie Crane. Richard Crane was an employee at A.L. Gravitt's Sheet Metal Shop.

The Cranes had a small fire at their home on November 5, 1973. Richard Crane was contacted by Harvey and A.L. Gravitt concerning the handling of his insurance claim. Crane testified that he, Gravitt, Harvey, Hoyle, and George Cumbie staged a burglary at Crane's residence in the early part of December 1973. The men loaded the furniture onto three trucks and transported it to a house owned by the Peacocks. Crane testified that after the burglary he received a settlement of approximately $20,000 from the Alabama Farm Bureau.

The Cranes subsequently moved to Fort Pierce, Florida. Before doing so, Richard Crane reinsured the property at 701 Thirteenth Ave. according to Harvey's plan to strip the house and burn it again. On November 16, 1974 Harvey's plan was executed.

The Cranes had considerable difficulty collecting compensation for the second fire loss. Ultimately, with the help of a lawyer, they received payments of $60,000 and $15,-800 from the Employers Casualty Co. Crane testified that most of the money was turned over to Harvey because of Crane's indebtedness to him. Crane also testified that he had a conversation with LaJune in which LaJune said he should have handled the fire the way Harvey handled the Bradley Circle fire.

Neither Harvey, Vera, nor Hoyle challenge the sufficiency of the evidence to convict them for this arson.

Section 3(k) of Count 1 charged that on August 17, 1975 Harvey and Hoyle, aided and abetted by each other, burned a house at Rural Route 4, Box 174, White Rock Road in Russell County, Alabama with intent to defraud the Great Central Insurance Co. Hoyle Peacock, the named insured, had the following coverage: $20,000 on the house, $2,000 on the pertinent structures, $10,000 on the unscheduled personal property, and $4,000 on additional living expenses.

The most damaging evidence of this arson came from Ruth Rhodes, Hoyle's stepmother. She testified that Hoyle admitted burning his home on White Rock Road. Mrs. Rhodes further stated that Hoyle attempted to persuade her to burn her home during the same conversation. She testified that he said, "We have this crew that really knows what they're doing. Daddy [Harvey] and me and Butch [LaJune]."

Neither Harvey nor Hoyle challenge the sufficiency of the evidence to convict them of this arson.

2. *The Murder of Ruth Elaine Peacock*

Section 3(*l*) of Count 1 charged that on November 27, 1975 Harvey and Hoyle, aided and abetted by each other and by Joseph Allen LaJune murdered Ruth Elaine Peacock. Ga.Code § 26-1101(a).

The victim's body was found by a deer-hunter early Thanksgiving morning lying next to Highway 39 in Quitman County, Georgia. Death was caused by multiple gunshot wounds to the head. Her body was laced with lacerations and bruises indicating that she had been badly beaten before death.

The evidence against Harvey and Hoyle was entirely circumstantial. Georgia Cumbie testified that Harvey had said he hoped to shoot Elaine to death. On another occasion, Cumbie heard Harvey and Ray Peacock plot Elaine's "accidental" drowning in Lake Oliver.

In addition, Hoyle's motives to kill Elaine were well developed. They had severe marital problems. While hitchhiking, Elaine had picked up a man, Larry Ford, and had sex with him. At the time of her death, Ford was living with Elaine in the same house with Hoyle. Furthermore, Hoyle had taken out large amounts of life insurance on Elaine's life for the benefit of their young daughter, Brandy.

The evidence further shows that on Thanksgiving eve Harvey came into James Whatley's business and asked to borrow Whatley's El Camino truck. Joseph LaJune walked in several minutes later. Whatley testified that Harvey asked LaJune if he had any plans that night. After LaJune responded no, Harvey instructed him "to stay close to the phone." Whatley further testified that Harvey called him at approximately 4:30 a. m. the next morning and told him that his truck was parked at his shop. Documentary evidence placed Hoyle in Florida at the time of his wife's death.

Mary Nell Peacock, Harvey's stepmother, testified that sometime after Elaine's funeral, Harvey told her that he knew who killed Elaine. He also said that he was the only one who knew and that it was going to stay that way.

Both Harvey and Hoyle vigorously challenge the sufficiency of the evidence to convict them of this murder.

3. *Other Acts of Racketeering*

Count 1 also charged that mail fraud charged in Counts 2-28 and the obstruction of justice charged in Count 24 were part of the appellants' pattern of racketeering.

Section 4 of Count 1 charged that the proceeds which the appellants acquired through their pattern of racketeering, at least $201,000.00, is subject to forfeiture. 18 U.S.C. § 1963.

B. *Counts 2-28: The Mail Frauds*

The mail frauds charged by the indictment all involve the appellants' allegedly fraudulent attempts to obtain insurance proceeds from the previously described arson and murder.

Count 2 charged that Harvey and Vera furthered a scheme fraudulently to obtain insurance proceeds through a mailing regarding the arson at Rural Route 5, Box 221 in Phenix City. (Count 1, 3(g)).

Harvey does not challenge the sufficiency of the evidence to convict him of this mail fraud.

Counts 3-6 charged that Harvey furthered a scheme fraudulently to obtain insurance proceeds through mailings regarding the arson at 2815 East Britt David Road in Columbus, Georgia (Count 1, 3(h)).

Harvey does not challenge the sufficiency of the evidence to convict him of these mail frauds.

Count 7 charged that Harvey, Vera, Hoyle and Roger Therrien furthered a scheme fraudulently to obtain insurance proceeds through a mailing regarding the arson at 2946 Great Road in Columbus, Georgia. (Count 1, 3(i)).

Neither Harvey nor Hoyle challenge the sufficiency of the evidence to convict them for this mail fraud.

Counts 8-13 charged that Harvey, Hoyle, Vera, and Roger Therrien furthered a scheme fraudulently to obtain insurance proceeds through mailings in connection with the arson at 701 13th Ave. in Phenix City, Alabama. (Count 1, 3(j)).

Neither Harvey, Vera, nor Hoyle challenge the sufficiency of the evidence to convict them for these mail frauds.

Counts 14 and 15 charged that Harvey and Hoyle furthered a scheme fraudulently to obtain insurance proceeds through mailings in connection with the arson at Rural Route 4, Box 174, White Rock Road in Russell County, Alabama (Count 1, 3(k)).

Neither Harvey nor Hoyle challenge the sufficiency of the evidence to convict them of these mail frauds.

Counts 16-23 charged that Harvey and Hoyle furthered a scheme fraudulently to obtain insurance proceeds through mailings in connection with the death of Ruth Elaine Peacock. (Count 1, 3(*l*)).

C. *Obstruction of Justice*

Count 24 charged that Harvey attempted to obstruct the investigation of the aforementioned crimes by killing Joseph Allen "Butch" LaJune and Darrell Lavon Brooklin to prevent them from talking to the FBI.

On the morning of July 9, 1975 both LaJune and Brooklin went to meet Harvey at a home belonging to a friend of Harvey's in Stockbridge, Georgia. That same morning Harvey called the Henry County Police Department to report a shooting. Both men had been shotgunned to death. At trial, Harvey asserted that he killed both men in self-defense.

Harvey does not challenge the sufficiency of the evidence to convict him for obstruction of justice. He does, however, strenuously challenge the admission of several hearsay statements which relate to this Count.

III. *Challenges to the Sufficiency of the Evidence*

A. *Vera*

Vera challenges the sufficiency of the evidence to convict her for the arsons described in subparagraphs 3(a), (b), (c), (g) and (i) of Count 1 and the related mail frauds in Counts 2 and 7-13. On appeal, our role is sharply limited to determining whether a reasonably minded jury must necessarily entertain a reasonable doubt as to the defendant's guilt under the evidence. *United States v. Sloan*, 601 F.2d 200, 202 (5th Cir. 1979). In conducting this inquiry we must consider the evidence in the light most favorable to the government, *Glasser v. United States*, 315 U.S. 60, 80, 62 S.Ct. 457, 469, 86 L.Ed. 680 (1942), resolving reasonable inferences and credibility choices in support of the jury's verdict. *United States v. Henderson*, 565 F.2d 157, 161 (5th Cir. 1978).

[1] The evidence shows that Vera was an integral part of the racketeering pattern. Most often she was cast as an aider and abetter tending to financial matters.

We begin by noting that Vera commits the evidence was sufficient to convict her of burning the home at 701 13th Ave., Phenix City, Alabama (Count 1, 3(j)). There, the evidence revealed that she assisted Harvey and other members of her family in clearing the house of valuables before it burned. She also told Jessie Crane that she knew

the house was to be burned and she received much of the furniture taken from the house before the fire. Finally, she traveled with Harvey to the Cranes' house in Florida immediately after the fire and was present while he described the details of the fire.

The evidence regarding the fire at 2048 Grant Road (Count 1, 3(i)) centers on George Cumbie's testimony. He testified that Harvey approached him about burning his house to obtain insurance proceeds. He further testified that following the fire, he was assisted by Harvey and Vera in completing his insurance claim. That Harvey and Vera were not novices in the business of arson was shown when they told Cumbie and his wife that they had a pre-existing list that the Cumbies could use in preparing their insurance forms. Finally, Cumbie testified that he actually received this list from Vera. Count VII charged Vera and others with mail fraud in connection with this arson. Vera's only challenge to the mail fraud is the sufficiency of evidence to convict her for the underlying arson. We find the evidence sufficient to convict her for this arson; hence, we affirm her conviction for mail fraud.

The evidence regarding the fire at Rural Route 3, Box 221, Phenix City, Alabama (Count 1, 3(c)) showed that Vera once again played a central role in the financial end of the Peacocks' operation. First, she accepted the property at Rural Route 3 as a gift from Harvey who paid Mickey Miller $250 to burn it. Vera vigorously pursued the insurance settlement and ultimately received $4,500 from the Southern United Fire Insurance Company. Count II charged Vera with mail fraud in connection with this arson. Again, as her only challenge to the mail fraud is the sufficiency of the evidence regarding the underlying arson, we affirm her mail fraud conviction.

The evidence regarding the fire at 3004 4th Ave. (Count 1, 3(e)) shows that Harvey paid Mickey Miller $250 to burn the house of Clarence and Mary Nell Peacock. Once again a familiar pattern emerges. Mary Nell testified that before the fire she was approached by Vera. In order to maximize the "profit" from the arson, Vera told Mary Nell, per Harvey's instructions, "to take the clothes and stuff" out of the house prior to its planned destruction.

After the fire Vera again played an active role in the settlement of the insurance proceeds. She was present and offered assistance when the insurance adjuster came. In addition, she accompanied Mary Nell to the offices of the Interstate Insurance Company.

The evidence regarding the fire at 2913 Bradley Circle (Count 1, 3(b)), showed that Harvey and Vera lived in this dwelling, were the named insureds, and that they received $27,241.81 from Utica Fire Insurance Co. after the arson. As is the case in all the arsons, Harvey does not challenge the sufficiency of the evidence to convict him. The most significant evidence connecting Vera to the arson comes from Mary Nell Peacock. Vera told Mary Nell that furniture in the Peacock's present home at 3011 Fourth Ave. came from the destroyed house on Bradley Circle. This, of course, indicated that Vera had been part of the typical Peacock *modus operandi*: the house on Bradley Circle had been stripped of its valuables before it was burned.

Vera's participation in this pattern of racketeering must also be reviewed in light of the "clear rule that . . . prior or subsequent [crimes] may be introduced to establish . . . that there is a consistent pattern, scheme of operations, or similarity of method." *United States v. Goodwin*, 470 F.2d 893, 899 (5th Cir. 1972); see Fed.R.Evid. 404(b). Here, the arsons, and Vera's role in them, were substantially similar. Harvey, Vera's husband, was generally responsible for the actual execution of the arsons. Vera, on the other hand, was consistently involved with "financial planning" and with clearing a house of its valuable possessions before it was burned. She was also always there to lend a "helping hand" to insure that the insurance proceeds were forthcoming. Based on this evidence, the jury could infer that Vera was involved in a well-organized pattern of arson.

After a thorough review of the record, we agree with the appellant that the evidence is insufficient to convict her of the arson at 3006 Third Ave. (Count 1, 3(a)). The government's treatment of the evidence supporting this arson does nothing to convince us otherwise. There is no mail fraud count connected with this arson.

B. *Harvey and Hoyle*

[2] Both Harvey and Hoyle assert that the evidence is insufficient to convict them of the murder of Ruth Elaine Peacock. (Count 1, 3(*l*)).

Under Georgia law, murder consists of: (1) unlawfully; (2) with malice aforethought; (3) causing the death of another human being. Ga.Code Ann. § 26-1101(a) (1978). Considered most favorably to the government, the wholly circumstantial evidence against Harvey and Hoyle reveals the following.

Ruth Elaine Peacock's body was found near Highway 80 in Quitman County, Georgia early Thanksgiving morning. An autopsy revealed that Ruth Elaine died of multiple gunshot wounds to the head sometime during the early morning hours on November 27, 1975.

George Cumbie testified that he heard Harvey say he would like to choke Ruth Elaine to death. Cumbie testified that on another occasion he heard Ray and Harvey discussing an "accidental" drowning of Ruth Elaine in Lake Oliver.

Furthermore, according to Cumbie, Hoyle admitted beating up Elaine in order to get her to sign custody release papers on their daughter, Brandy. In addition, Hoyle had thousands of dollars of insurance on his wife's life that named Brand; as the beneficiary. Finally, Hoyle and Ruth Elaine had severe marital problems. Ruth Elaine had picked up a hitchhiker, Larry Ford, and had had sex with him on the spot. At the time of her death, Larry Ford was living with Ruth Elaine and Hoyle in their home.

Based on this evidence, a reasonable juror could conclude beyond a reasonable doubt that both Harvey and Hoyle had sufficient motives to murder Ruth Elaine.

However, there is very little evidence connecting Harvey and Hoyle to the actual crime.

The record shows that on the evening before Thanksgiving Harvey Peacock came into James Whatley's business and wanted to borrow his El Camino truck. Whatley also testified that Harvey asked Butch LeJune if he had any plans that night. LeJune replied that he did not. Harvey then instructed LeJune to stay close to the phone. Harvey called Whatley at approximately 4:30 a. m. the next morning and told him that his truck was parked at Whatley's shop.

No evidence places either Harvey, Hoyle, or one of their henchmen at the scene of the crime. Nor is there any evidence linking the appellants with the murder weapon. In sum, the entirety of the government's evidence merely suggests that Harvey was engaged in a task that required an El Camino truck, and the possible assistance of Butch LeJune, on the morning of the murder. Unexplained and suspicious circumstances are not sufficient to convict a person of murder. *Rodgers v. State*, 213 Ga. 797, 102 S.E.2d 16; *Young v. State*, 121 Ga. 324, 49 S.E. 296; *Park v. State*, 120 Ga. 164, 51 S.E. 317; *Reynolds v. State*, 170 Ga. 810, 154 S.E. 229; *Cornwell v. State*, 170 Ga. 698, 177 S.E. 285; *Redwine v. State*, 207 Ga. 318, 61 S.E.2d 481; *Jane v. State*, 213 Ga. 811, 99 S.E.2d 70.

The insufficiency of the government's evidence is not cured by Mary Nell Peacock's testimony that Harvey told her he was the only one who knew who killed Ruth Elaine and that it was going to stay that way. The government also attempts to buttress its case by arguing that the murder of Ruth Elaine fits into the same pattern as the arsons committed by Harvey and Hoyle. While these factors properly focus suspicion on Harvey and Hoyle, they do not constitute sufficient evidence to convict the appellants of murder. We find the evidence insufficient to convict Harvey and Hoyle of the murder charged in subparagraph 3(e) in Count 1.

C. *Double Jeopardy Arguments*

[3] Defendants note that the district court charged the jury that in order to convict under Count I, the evidence does not have to show that the appellants participated in each and every racketeering act charged in that count; rather, the evidence need only show that each appellant participated in at least two of the racketeering acts. 18 U.S.C. § 1962(c). Appellants also note that the jury returned only a general verdict of guilty against each of the appellants on Count I. Hence, appellants argue that if we reverse any of the racketeering acts charged in Count I, we must reverse Count I because it is impossible to determine upon which two counts the jury relied in returning a guilty verdict. *United States v. Brown*, 583 F.2d 659, 669 (3d Cir. 1978).

In *Brown*, the Third Circuit adopts the reasoning of *United States v. Dansker*, 537 F.2d 40 (3d Cir. 1976). In *Dansker* Count 1 charged that the defendants had conspired to bribe two individuals, Ross and Sereta. The district court instructed the jury that if the alleged conspiracy had as its illegal objective either the bribe of Ross or Sereta it could convict the defendants. The jury returned a general verdict of guilty as to Count I. Count II charged the substantive offense of bribery of Ross. Count III charged that the defendants bribed Sereta. The Third Circuit found that the evidence was insufficient to support the defendants' convictions for bribing Sereta (Count III). The court held that the evidence was sufficient to convict the defendants of bribing Ross (Count II).

The government argued that since the jury found the defendants "guilty of jointly bribing Mayor Ross (Count II) . . . it must have also determined that the Ross bribe was at least one of the conspiracy's objectives." *Id.* at 51. The court rejected this argument because "the crime of conspiracy is separate and distinct from the related substantive offense." *Id.* Therefore the court reversed, reasoning that "the possibility remains, albeit slim, that the jury found that the defendants engaged in a conspiracy to bribe Sereta alone (Count III) in spite of its guilty verdict on Count II." *Id.*

Assuming, without deciding, that *Dansker* is correct the situation is different here. The danger, if any, in a conspiracy case alleging several objectives is that if one of the objectives is not supported by evidence, it cannot be determined whether or not the jury's verdict of guilty rested upon its conclusion that the defendants had an objective which can not be supported by the evidence. Unlike a *Dansker* conspiracy situation, conviction under 18 U.S.C. § 1962(c) requires only that the defendant be convicted of two acts of racketeering and that "the two or more predicate crimes must be related to the affairs of the enterprise but need not be related to each other." *United States v. Elliot*, 571 F.2d 880, 889 n.28 (5th Cir. 1978). Here, the record reveals that the jury found each of the appellants guilty of at least two predicate acts which were related to the affairs of Harvey's arson ring.

Pursuant to Fed.R.Crim.P. 31(c) the jury returned a special verdict requiring the appellants to forfeit the insurance proceeds they obtained from the arsons described in paragraph 3(a), (b), (c), (e), (g), (h), (i)(j), and (k) and from the murder in paragraph 3(f). To require forfeiture the jury must have necessarily determined that the appellants were guilty of the underlying crimes. Furthermore, Count 1 incorporated Counts 2-34. The jury returned a guilty verdict as to all these counts. Of course, we have reversed Vera's conviction for the arson described in Count 1, 3(a). We have also reversed Hayle and Harvey's conviction for the murder described in Count 1, 3(f) and the related mail frauds in Counts 16-22. Nevertheless, based on the jury's special verdict and their verdict as to C-ounts 2-34, we find that each of the appellants were convicted by the jury of at least two racketeering acts which were related to the arson enterprise. To the extent *United States v. Brown*, 537 F.2d 40 (3d Cir. 1976) is contrary, we decline to follow it.

[4] Appellants also contend that it violates the double jeopardy clause to impose consecutive and additional sentences on them for the substantive mail fraud counts because those counts are incorporated in Count 1. Consecutive sentences may be imposed for two crimes if one "requires proof of a fact which the other does not." *Blockburger v. United States*, 284 U.S. 299, 304, 52 S.Ct. 180, 182, 76 L.Ed. 306 (1932). It should be evident from simply reading the statutes that a RICO conviction requires proof of a fact which a single mail fraud conviction does not. We agree with the Ninth Circuit that it does not violate the double jeopardy clause to impose consecutive sentences for a RICO count and mail fraud counts which also serve as racketeering acts in the RICO count. *United States v. Rone*, 598 F.2d 564, 571-72 (9th Cir. 1979).

IV. *Hearsay and Confrontation Clause Arguments*

Harvey argues that the admission of four declarations by his coconspirators Butch LeJune and Darrell Brookins violated both his right to confrontation and the rules of hearsay. Count 34 charged Harvey with murdering LeJune and Brookins to insure their silence in the investigation of this case.

Our inquiry is made considerably easier by *Ohio v. Roberts*, 448 U.S. 56, 100 S.Ct. 2531, 65 L.Ed.2d 597 (1980) in which the Supreme Court resolved the relationship between the rules of hearsay and the Confrontation Clause.

The Court held:

> In sum, when a hearsay declarant is not present for cross-examination at trial, the Confrontation Clause normally requires a showing that he is unavailable. Even then, his statement is admissible only if it bears adequate "indicia of reliability." Reliability can be inferred without more in a case where the evidence falls within a firmly rooted hearsay exception.

Ohio v. Roberts, 100 S.Ct. at 2539.

Here, both prongs of the Supreme Court's test are met in regard to each declaration Harvey challenges. First, the unavailability of the declarants is indisputable; they are dead. Second, we can "infer the reliability" of these declarations because they all "fall within a firmly rooted hearsay exception."

[5] The first declaration Harvey attacks comes from the testimony of A.L. Gravitt. Gravitt testified about a conversation he had with LeJune. In that conversation LeJune stated that he and Harvey torched the residence at 3615 East Britt David Road (Count 1, 3(h)) from the attic. LeJune also told Gravitt that Harvey wanted "to get [him] in the attic." Consequently, he made Harvey "come down first" from the attic.

Two exceptions to the hearsay rule are applicable to LeJune's statement. First, the statement is clearly admissible as a statement against penal interest. Fed.R. Evid. Rule 804(b)(3) (West 1978). Second, the statement can properly be considered a statement by a conspirator during the course and in furtherance of the conspiracy. 801(d)(2)(E).[1]

[6] Coconspirator statements are admissible even when no conspiracy is charged if there is independent evidence of a concert of action in which the defendant was a participant. *United States v. Dawson*, 576

1. In order to admit a coconspirator's declaration in this circuit the district judge must first determine that there is substantial, independent evidence of a conspiracy. *United States v. James*, 590 F.2d 575, 581 (5th Cir. 1979) (en banc). In the alternative, he may admit the statement subject to its being connected up. *Id.* at 582. Regardless of which method the district court chooses, on appropriate motion at the conclusion of all the evidence the court must determine as a factual matter whether the prosecution has shown by a preponderance of the evidence independent of the statement itself (1) that a conspiracy existed, (2) that the coconspirator and the defendant against whom the coconspirator's statement is offered were members of the conspiracy, and (3) that the statement was made during the course and in furtherance of the conspiracy. *Id.* We have held that this procedure is necessary to insure a minimum standard of reliability. Accordingly, the *James* requirements must be met in order for a declaration to pass muster under the rule of *Ohio v. Roberts*, 448 U.S. 56, 100 S.Ct. 2531, 65 L.Ed.2d 597 (1980). For a detailed explanation of the *James* requirements see *United States v. Hinds*, 630 F.2d 1301 (5th Cir. 1981).

CURRICULUM VITAE
January 1989

Roger W. Shuy
Linguistics Department
Georgetown University
Washington, DC 20057

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 122

I. PERSONAL

Ph.D.:	Case Western Reserve University, 1962 English and Linguistics
M.A.:	Kent State University, 1954, English
A.B.:	Wheaton College (Illinois), 1952, English

II. PROFESSIONAL POSITIONS

1956-58	High School English Teacher, Akron, Ohio
1957	Special Instructor, Akron University
1958-64	Assistant Professor of English and Linguistics, Wheaton College
1964-67	Associate Professor of English and Linguistics, Michigan State Univ.
1967-70	Center for Applied Linguistics • Head, Sociolinguistics Program, 1967-71 • Associate Director, 1974-80 • Senior Linguist, 1980-85
1970-87	Professor of Linguistics, Head of Sociolinguistics Program, Georgetown University
1987-	Chairman and Professor, Linguistics Department, Georgetown University

III. GRANTS, AWARDS AND RESPONSIBILITIES

A. Program Grants

Director, NDEA Title XI Institute for Applied Linguistics (USOE), Summer 1965. Michigan State University.

Director, National Science Foundation grant to Georgetown University to establish a doctoral program in Sociolinguistics, 1970-73.

Director, Teacher Education Program in Social Dialects, Norfolk, Viriginia, 1972.

EXHIBIT 122 HOUSE

B. Research Grants

Director, Detroit Dialect Study (USOE), 1966-67, Michigan State University

Director, Carnegie Corporation of New York grant to the Center for Applied Linguistics, Urban Dialect Study, 1967-70.

Director, National Institute of Mental Health grant to the Center for Applied Linguistics, Psycholinguistic Attitude Study, 1968-69.

Director, USOE grant to the Center for Applied Linguistics, Sociolinguistics Theory, Materials and Programs, 1969-70.

Director, USOE grant to the Center for Applied Linguistics, Influence of Two Overlapping Systems on the English of Harlem Puerto Ricans, 1970-71.

Director, Carnegie Corporation of New York research grant to the Center for Applied Linguistics to study the acquisition of children's use of language functions, 1975-77.

Director, NIE grant to the Center for Applied Linguistics to build a research agenda in bilingual education, 1975.

Director, Ford Foundation grant to the Center for Applied Linguistics to develop Puerto Rican community awareness of bilingual education in New York, 1975-77.

Co-director, Carnegie Corporation of New York grant to the Center for Applied Linguistics to study cross-disciplinary contributions to bilingual education, 1975-77.

Co-director, NIE grant to the Center for Applied Linguistics to study Inferencing in Reading, 1978-80.

Director, Planning Grant, Ford Foundation, Determining conditions that affect learning of English by Hispanics, Summer 1980.

Co-director, NIE grant to the Center for Applied Linguistics on Functional Language in Vernacular Setting, 1980-83.

Director, NIE grant to the Center for Applied Linguistics, Analysis of Dialogue Journal Writing as a Communicative Event, 1980-82.

Co-director, NIE grant to the Center for Applied Linguistics, "Dialogue Writing: Analysis of Interactive Writing in ESL," 1983-84.

C. Study Grants

Graduate Assistant, 1957, Case Western Reserve University

ACLS Fellow, Summer 1957, University of Michigan

University of Chicago Research Fellow, Summer 1963

U.S. Air Force Research Fellow, Summer 1964, Indiana University

D. Travel Grants

ACLS travel grant to the Third International Conference on Applied Linguistics, Copenhagen, August 1972.

Fulbright-Hays Award, Australia-American Foundation Fellow, Summer 1972, Consultant to UNESCO English Curriculum Development Project in Australia.

Ford Foundation Travel grant to speak at the Council of Europe Conference on Migrant Worker Children, Ghent, 1976.

Australian National Government award to speak at the National Committee in English Teaching Conference, Canberra, 1977.

Swedish Government, invited plenary lecturer, Association Internationale de Linguistique Appliquée, Lund, Sweden, 1981.

E. Professional Responsibilities

1. Professional Committees

Chairman, NCTE Clearinghouse Committe on Social Dialects, 1967-70.

Presidente, Comision de Linguistica y Dialectologia Angloamericanas Inter-American Program for Linguistics and Language Teaching, 1968-72.

Member, International Reading Association's Commission on Teacher Education, 1969-1972.

Member, International Reading Association's Commission on the Reading Process, 1969-1972.

Member, Linguistics Society of America, Program Committee, 1971-73.

Member, Linguistic Society of America, Technical Committee on Language and Cognitive Development, 1970-73.

Chairman, International Reading Association, Linguistics and Reading Committee, 1973-75.

Chairman, Linguistic Society of America, Committee on Linguistics and the Public Interest, 1974-76.

President, Lectological Association, 1972-75.

Member, Social Science Research Council, Committee on Sociolinguistics, 1972-76.

Membership Secretary, Executive Committee, National Conference for Research in English, 1976-79.

Presidente, Comision de Linguistica Angloamericana, Inter-American Program for Linguistics and Language Teaching, 1976-77.

Member, Committee on Language Acquisition of Young Children, National Council of Teachers of English, 1977-79.

Member, Executive Committee, National Council of Teachers of English, 1977-81.

Member, Executive Committee, AILA (Association Internationale de Linguistique Appliquée), 1978-81.

President, American Association of Applied Linguistics, 1978-80.

Member, International Committee, AILA (Association Internationale de Linguistique Appliquée), 1981-85.

Member, Linguistic Society of America, Committee on Linguistic Institutes and Fellowships, 1984-85.

Member, Board of Directors, Consortium on Social Science Associations, 1984-88.

2. Professional Advisory Boards

Member, Advisory Committee, the Australasia Foundation for Education, 1976-80.

Member, National Advisory Board, ERIC Clearinghouse on Languages and Linguistics, 1974-80.

Member, Bilingual Education Task Force of Teacher Corps, 1975-76.

Member, Advisory Board, NSF Linguistics Program, 1976-78.

Member, Scientific Advisory Board, Center for the Study of Reading, 1977-85.

Member, Board of Directors, Institute for the Study of Social Interaction, 1980-81.

Member, Board, International Pragmatics Association, Antwerp 1985-.

3. Professional Evaluation Panels

Evaluation Panel, Linguistics Department, SUNY Buffalo, 1972, 1978, 1983, 1987.

Member, Evaluation Panel, Early Childhood Education, National Institute of Education, 1972.

Member, USOE Bureau of Educational and Professional Development, Leadership Training Institute, 1970-75.

Member, Joint Consultant Review Panel, Northwest Regional Educational Laboratory, 1971-72.

Evaluator of Proposals: NIE, NIMH, USOE, Canada Council, NSF, British SSRC, Carnegie Corporation of New York, NEH, Ford Foundation, Walter Annenberg Foundation.

Evaluation Panel, Center for the Study of Reading (NIE), 1978-85.

Evaluator, SUNY Albany, 1980.

F. Visiting Faculty Positions

LSA Summer Linguistic Institute, State University of New York at Buffalo, 1971.

International Reading Association, Inter-disciplinary Seminar, University of California at Santa Cruz, 1972.

LSA Summer Linguistic Institute, University of Michigan, 1974.

University of Limburg, Co-Chairman, European Applied Linguistic Institute, Belgium, Summer 1974.

LSA Summer Institute, State University of New York at Oswego, 1976.

Seattle Pacific University, Summer 1978.

University of Jyväskylä, Finland, Summer 1979.

G. University Committee Responsibilities

Chairman, NDEA Title VI Graduate Fellowship Committee, 1965-67, Michigan State University.

Chairman, Fulbright-Hays Graduate Fellowship Committee, 1965-67, Michigan State University.

Member, Graduate Committee, Michigan State University, 1965-67.

Member, Board of Graduate Studies, Georgetown University, 1972-73.

Member, Graduate Committee, School of Languages and Linguistics, Georgetown University, 1970-74, 1977-78.

Member, Admissions and Fellowship Committee, Linguistics Department, Georgetown University, 1970-78.

Member, MAT Admissions Program, Georgetown University, 1981-86.

Member, Executive Committee, School of Languages and Linguistics, Georgetown University, 1987-.

Member, Council of Department Chairs, School of Languages and Linguistics, Georgetown University, 1987-.

H.. Editorial Boards and Advising

1. Current:

Editorial Board, International Journal of the Sociology of Language, 1973- .

Editorial Board, Discourse Processes, 1975-.

Editorial Board, Language Problems and Language Planning, 1977-.

Editorial Board, Studies in Language, 1979-.

Editorial Board, Hispanic Linguistics, 1983-.

Editorial Board, Jewish Language Review, 1983-.

Editorial Board, Linguistics and Education, 1986-.

2. Past:

Linguistics Advisor, Ginn and Company, 1967-81.

General Editor, Urban Language Series, Center for Applied Linguistics, 1967-74.

Editorial Board, American Speech, 1968-77.

Editorial Board, Language in Society, 1973-80.

Editorial Board, Reading Abstracts, 1975.

General Editor, Sociolinguistic Series, Newbury House Publishers, 1974-80.

Linguistics Advisor, Xerox Intermediate Dictionary, 1973.

General Editor, Literacy Series, Center for Applied Linguistics, 1977-84.

Editorial Consultant, Journal of Educational Psychology, 1977, 1985.

Editorial Consultant, American Journal of Sociology, 1977.

Editorial Consultant, University Park Press, University of Texas Press, Temple University Press, University of Pennsylvania Press, The Free Press, Wesleyan Press, Rutgers University Press.

Editorial Consultant, Applied Psycholinguistics, 1980-81.

Editorial Consultant, Reading Research Quarterly, 1981.

I. Memberships in Learned Societies

1. Current

Linguistic Society of America (Program Committee, Ethics Committee, Delegate to Consortium of Social Science Organizations, Committee on Linguistics Institutes and Fellowships).

American Dialect Society

National Council of Teachers of English (Social Dialects Committee, Language of Children Committee, Elementary English Committee).

Associacion de Linguistas y Filologos de la America Latina

Association Internationale pour la Recherche et la Diffusion des Méthodes Audio-Visuelles et Structure-Globales (AIMAV).

American Association of Applied Linguistics (Vice-President, President).

2. Past

International Reading Association (Linguistics and Reading Committee), 1965-1980.

American Education Research Association, 1970-1983.

American Anthropological Association, 1975-1982.

Teachers of English to Speakers of Other Languages (Publications Committee), 1970-1980.

National Conference on Research in English (Membership Committee (1974-81).

IV. PUBLICATIONS: BOOKS

A. REGIONAL AND SOCIAL DIALECTS

The Northern-Midland dialect boundary in Illinois. University of Alabama Press (American Dialect Society Publication #38), 1962.

Social dialects and language learning. Editor. Champaign: National Council of Teachers of English, 1965.

Discovering American dialects. Champaign: National Council of Teachers of English, 1967.

Field techniques in an urban language study. Co-author. Washington, D.C.: Center for Applied Linguistics, 1968.

Dialects in Culture. Co-editor. University of Alabama: University of Alabama Press, 1979.

B. SOCIOLINGUISTICS

Sociolinguistics: A cross-disciplinary perspective. Compiler. Washington, D.C.: Center for Applied Linguistics, 1971.

Sociolinguistics in cross-cultural analysis. Co-editor. Washington, D.C.: Georgetown University Press, 1972.

Sociolinguistics: Current trends and prospects. Editor. Washington, D.C.: Georgetown University Press, 1973.

Language planning: Current issues and research. Co-editor. Washington, D.C.: Georgetown University Press, 1973.

Language attitudes: current trends and prospects. Co-editor. Washington, D.C.: Georgetown University Press, 1973.

Some new directions in linguistics. Editor. Washington, D.C.: Georgetown University Press, 1973.

New ways of analyzing variation in English. Co-editor. Washington, D.C.: Georgetown University Press, 1973.

F.2d 656, 658 (5th Cir. 1978); *Park v. Huff*, 506 F.2d 849, 859 (5th Cir. 1975). There is overwhelming independent evidence that Gravitt and LeJune were members of Harvey Peacock's arson ring. See Part I, *infra*. We have previously noted that the concept of furthering a conspiracy "must not be applied too strictly or the purpose of the exception would be defeated." *United States v. Patton*, 594 F.2d 444, 447 (5th Cir. 1979). LeJune's comments, which were made shortly after the fire at 3615 Britt David Road, served the conspiracy in two ways. First, Gravitt was informed of the arson ring's most recent "success." Second, Gravitt was informed that Harvey was a dangerous ringleader who had to be watched in order to insure one's own safety. Hence, under the standard of *United States v. Patton*, 594 F.2d 444 (5th Cir. 1979), LeJune's comments furthered the conspiracy of which he and Gravitt were a part.

The second declaration which Harvey attacks comes from the testimony of Richard Crane. Crane, who along with his wife conspired to burn his own house at 701 19th Ave. in Phenix City (Count 1, 3(j)), testified about a conversation he had with Butch LeJune. In that conversation LeJune told Crane that he "should have handled [his] situation" like LeJune handled his in the 3615 East Britt David Road fire. LeJune explained to Crane that he had arranged for Harvey to remove his furniture while LeJune was out of town so as not to cast suspicion on LeJune.

LeJune's discussion of insurance fraud techniques with Crane immediately after the fire at Crane's house is admissible as a coconspirator's declaration. *See United States v. Goodman*, 605 F.2d 970, 978 (5th Cir. 1979).

The third declaration which Harvey challenges comes from the testimony of Alicia LeJune House, who was named in the indictment as a participant but not as a defendant.

She testified about a conversation she had with her brother, Butch LeJune, before the Crane fire (Count 1, 3(j)). LeJune had asked her if Harvey could store "some building materials and stuff" on her property. Butch LeJune was clearly attempting to make preparations for the Crane fire. His statement is admissible as a coconspirator's declaration. Fed.R.Evid. 801(d)(2)(E).

The fourth declaration which Harvey challenges comes from the testimony of Carol Brookins, the widow of Darrell Brookins. She testified about comments made by her deceased husband immediately following a telephone conversation with Harvey. Darrell told her that Harvey had informed him that the investigation of this case had been stopped due to insufficient evidence. Harvey then told Darrell to get out of town.

Darrell's comments to his wife were properly admitted as present sense impressions. Fed.R.Evid. 803(1). Rule 803(1) provides that "[a] statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter" is not excluded by the rule against hearsay. The underlying theory of this exception "is that substantial contemporaneity of event and statement negate the likelihood of deliberate or conscious misrepresentation." Advisory Committee Note to Rule 803(1). Darrell repeated Harvey's comments to his wife immediately after talking with Harvey on the phone. There was no time for him to consciously manipulate the truth. Both the letter and purpose of Rule 803(1) are served by admitting Harvey's declaration. *See Dunn v. Apache Powder Co.*, 480 F.2d 1217 (5th Cir. 1970).[2]

Harvey also challenges a declaration from the testimony of Mrs. Ruth Rhodes. Mrs. Rhodes testified about a conversation with her son-in-law, Hoyle Peacock. During that conversation Hoyle admitted burning houses at 3606 Third Avenue (Count 1, 3(a)) and at White Rock Road (Count 1, 3(h)). He then urged Ruth Rhodes to burn her house for insurance proceeds. He explained to Ruth Rhodes that the arson could be smoothly executed because "we have this crew that really knows what they're doing . . . Daddy [Harvey Peacock] and me and Butch [LeJune]." Record, Vol. V, at 129-130. This conversation took place after all the fires charged in the indictment had occurred. Nonetheless, it is an obvious attempt by Hoyle to further the Peacocks' pattern of arson. Accordingly, Hoyle's statements were properly admitted as coconspirator declarations. There is no confrontation problem because Hoyle testified in his own behalf.

Finally, Hoyle challenges the admission of Ruth Rhodes' testimony regarding a telephone conversation she had with her daughter, Ruth Elaine Peacock, the night before Ruth Elaine was murdered. Ruth Elaine allegedly told her mother that "Hoyle was gone, she had no idea where he was at, they were separated; that he had taken her keys away from her and that she had no idea when or if she would ever see him again." Record, Vol. VIII, at 64. Hoyle argues that this statement was prejudicial because "the jury might have reasonably inferred that Elaine Peacock and [Hoyle] were through for good and that therefore, [Hoyle] might well have concluded that the best thing to do was to kill his wife and collect the insurance proceeds on her life." Brief of Appellant Hoyle Peacock at 26.

At trial Ruth Elaine's statement was admitted under the residual exception to the rule against hearsay. Fed.R.Evid. 804(b)(5). The government urges the highly sensible argument that Harvey and Hoyle have waived their right to confront Ruth Elaine Peacock because they killed her.

[7] However, we need not resolve this issue. Ruth Elaine's statement serves the limited purpose of establishing a motive for Hoyle to kill her. As noted in Part II, *infra*, there is an overwhelming amount of evidence that Hoyle had an adequate motive to murder his wife. Ruth Elaine's statement simply reinforces this irrefutable conclusion. Nonetheless our review of the evidence showed that it was insufficient to convict Harvey and Hoyle of murder. Accordingly, even if Ruth Elaine's statement was erroneously admitted the error is harmless.

Appellants' other arguments are without merit.

V. *RICO Forfeiture*

The jury returned verdicts ordering the forfeiture of the insurance proceeds acquired by the appellants through their pattern of racketeering. The appellants contend that the indictment was defective because it did not set out with sufficient specificity the "property" or "interest" to be forfeited as required by Federal Rule of Criminal Procedure 7(c)(2).

[8, 9] Appellants attempt to bolster their argument by confining our examination of this issue to the language in paragraph 4 of Count 1 of the indictment. An indictment should be read as a whole to determine its meaning. *United States v. Yiln*, 642 F.2d 848, 852 (5th Cir. 1981); *United States v. Markham*, 627 F.2d 197, 202 (9th Cir. 1979). When this indictment is read as a whole, and particularly paragraph 3 of Co. ut 1 which meticulously sets out the arsons and the precise amount of insurance proceeds the appellants gained from them, there can be no doubt that the appellants were given ample notice of the property the government sought to have forfeited.

[10] Next appellants argue that 18 U.S.C. § 1963(a) does not authorize the forfeiture of the profits of the crime. They contend that § 1963 applies only to an interest in an enterprise. Hence, as the racketeering enterprise of which they were a part no longer exists, there can be no forfeiture in this case.

We do not write on a clean slate on this issue. *United States v. Martino*, 648 F.2d 367 (5th Cir., 1981) decides this issue in the appellants' favor. *Martino* is now pending in this court on motion for rehearing and suggestion of rehearing en banc. We are bound by *Martino* unless and until it be altered en banc.

2. Harvey also argues that a statement of Darrell Brookins which linked him with the murder of Elaine Peacock should not have been admitted. This statement also occurred during the testimony of his wife, Carol Brookins. Our review of the record discloses that the statement was not admitted by the trial judge. Furthermore, the jury was properly instructed to disregard the statement immediately after it was uttered. Record, Vol. VII, at 174-176.

Conclusion

In sum, we have found that there is insufficient evidence to convict Vera of the arson described in subparagraph (a) of Count 1. This does not require the reversal of Count 1 as to Vera. There were no mail fraud counts based on this arson.

We have also found that there is insufficient evidence to convict Harvey and Hoyle of the murder described in subparagraph (f) of Count 1. This does not require the reversal of Count 1 as to Harvey and Hoyle. However, the mail fraude based on this murder, Counts 16-22, are reversed.

Finally, bound by *United States v. Martino* we reverse the district court's forfeiture order.

In all other respects, the jury's verdict is affirmed.

AFFIRMED in part; REVERSED in part.

UNITED STATES of America, Plaintiff-Appellee,

v.

Lazaro AGUILERA, Defendant-Appellant.

No. 80-5707
Summary Calendar.

United States Court of Appeals, Fifth Circuit.
Unit B

Aug. 27, 1981.

When the prosecution of defendant was called for trial, defense counsel made an oral motion asking the trial judge to either enforce a guilty plea offer or to grant a continuance. Both motions were denied. Defendant was then convicted in the United States District Court for the Southern District of Florida, Joe Eaton, J., of various drug offenses, and he appealed. The Court of Appeals held that: (1) the trial judge was correct in refusing to order specific performance of a plea offer which had been given by the Government's counsel, since the plea offer had an express time limit in which it could be accepted, and defendant neither accepted in a timely fashion nor relied on the agreement, and (2) the failure to grant a continuance did not result in a denial of effective assistance of counsel.

Affirmed.

1. Criminal Law ⇐273.1(2)

Where Government's counsel made offer to drop two counts against defendant in exchange for plea of guilty on third count, but that offer was never accepted by defendant and no indication was given by defense counsel that offer would be accepted within specific time limit in which plea bargain could be accepted, trial judge was correct in refusing to order specific performance of plea offer, since it had been neither accepted nor relied upon by defendant. Fed.Rules Cr.Proc. Rule 11(e)(2), 18 U.S.C.A.

2. Criminal Law ⇐273.1(2)

Even if there had been plea agreement between defendant and Government, defendant would not have been justified in relying on bargain until trial judge approved it. Fed.Rules Cr.Proc. Rule 11(e)(2), 18 U.S.C.A.

3. Criminal Law ⇐1166(9)

Where defense counsel specifically stated that defendant had done nothing to change his position as a result of alleged plea agreement, there was no prejudice by refusal of trial judge to grant continuance when defendant argued that plea agreement had been accepted, even though Government's counsel indicated that time for accepting agreement had expired. Fed. Rules Cr.Proc. Rule 11(e)(2), 18 U.S.C.A.

4. Criminal Law ⇐641.13(2)

Failure to continue defendant's trial, after trial judge refused to enforce plea agreement, did not result in denial of effective assistance of counsel where defendant's counsel was appointed more than five months prior to trial, numerous pretrial motions were filed, voluminous requested jury charges were filed and trial record clearly reflected that defense counsel rendered reasonably effective assistance. U.S.C.A. Const. Amend. 6.

Humberto J. Aguilar, Miami, Fla., for defendant-appellant.

Kenneth W. Ligmon, Asst. U. S. Atty., Miami, Fla., for plaintiff-appellee.

Appeal from the United States District Court for the Southern District of Florida.

Before RONEY, FRANK M. JOHNSON, Jr. and HENDERSON*, Circuit Judges.

PER CURIAM:

Appellant Lazaro Aguilera and two others were [illegible] in the United States District Court [illegible] the Southern District of Florida with: one count to possess methaqualone with intent to distribute; possession of methaqualone with intent to distribute; and distribution of methaqualone, in violation of 21 U.S.C.A. §§ 841, 841(a)(1) and 18 U.S.C.A. § 2. Counsel was appointed for Aguilera and filed his notice of appearance with the court on April 7, 1980. On July 30, 1980, after a trial of approximately one and one-half days, Aguilera was found guilty by a jury on all counts and was sentenced to thirty-six months on each count, the sentences to run concurrently, and twenty-four months' special parole on Counts II and III, these special parole terms also to run concurrently.

Preliminary plea negotiations between Aguilera's counsel and counsel for the United States resulted in an offer by the Government's counsel to drop Counts II and III and to make no sentence recommendations if Aguilera pleaded guilty to Count I. However, this offer had a specific time limit upon which it had to be accepted by Aguilera.[1]

The offer was not accepted by Aguilera in a timely fashion and no proceedings were ever scheduled or conducted under Fed.R. Crim.P. 11(e)(2).

When the case was called for trial on July 28, 1980, counsel for Aguilera made an oral motion asking the trial judge either to enforce the plea offer that Aguilera had then decided to accept or to grant a continuance of the trial. Both motions were denied.

The record in this case reflects that the offer of Government's counsel to drop Counts II and III in exchange for a plea of guilty on Count I was never accepted by Aguilera and no indication was ever given by counsel for Aguilera until June 31, 1980, that the offer would be accepted; shortly thereafter Government's counsel advised that since the time for accepting the offer had expired the offer had been withdrawn.

[1, 2] Clearly the trial judge was correct in refusing to order "specific performance" of the plea offer which had neither been accepted nor relied upon by appellant. Even if there had been an agreement between the defendant Aguilera and the Government, under Rule 11(e)(2) the trial judge retains the discretion to accept or reject plea bargains, *see United States v. Ross*, 554 F.2d 709, 712 (5th Cir. 1977), and the defendant would not have been justified in relying on the bargain until the trial judge approved it:

> Surely neither party contemplates any benefit from the agreement unless and until the trial judge approves the bargain and accepts the guilty plea. Neither party is justified in relying substantially on

1. In April 1980, several motions, some of which were granted, were filed in Aguilera's behalf. The case was originally set for trial to commence May 5, 1980. Although a motion for continuance was denied, the court did reschedule the May 5, 1980, trial date for July 1980. In the motion for continuance no mention was made of any plea bargain, ongoing plea negotiations, or any inability of counsel to be prepared for the May trial. The only reason advanced in support of the motion was that Aguilera was involved at that time in aiding the Cuban refugees that "were arriving daily in this country."

Toward tomorrow's linguistics. Co-editor. Washington, D.C.: Georgetown University Press, 1974.

Studies in Language Variation. Co-editor. Washington, D.C.: Georgetown University Press, 1977.

Varieties of American English. Co-editor. Washington, D.C.: Georgetown University Press, 1979.

Language use and the uses of language. Co-editor. Washington, D.C.: Georgetown University Press, 1980.

C. APPLIED LINGUISTICS

Teaching Black children to read. Co-editor. Washington, D.C.: Center for Applied Linguistics, 1969.

Sociolinguistic theory, materials and training programs: Three related studies. Co-author USOE. Final Report OEC-3-9-180357-0400(010).

Language differences: Do they interfere? Co-editor. Newark, Delaware: International Reading Association, 1973.

Ginn Individualized Spelling Program. Co-author. Boston, Massachusetts: Ginn and Company, 1975.

Linguistic theory: What can it say about reading? Editor. Newark, Delaware: International Reading Association, 1977.

The relation of theoretical and applied linguistics. Co-Editor. New York: Plenum, 1987.

Dialogue Journal Communication. Co-author. Norwood, NJ: Ablex, 1988.

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V. PUBLICATIONS: ARTICLES AND CHAPTERS

A. REGIONAL DIALECTS

Tireworker terms. American Speech, December 1964: 268-277.

Sauce: dialect methodology. American Speech XLI: 74-75 (February 1966).

An automatic retrieval program for the Linguistic Atlas of the United States and Canada. In Paul Garvin and Bernard Spolsky (eds.), Computation in linguistics: a case book. Bloomington: Indiana University Press, 1966.

Dialectology and usage. Baltimore Bulletin of Education XLIII:2-4, 40-51 (1966-67).

A selective bibliography of social dialects. The Linguistic Reporter, June 1968:1-3.

Dialectology. In Ronald Wardaugh and H. Douglas Brown (eds.), A Survey of Applied Linguistics. Ann Arbor: University of Michigan Press, 1977.

My Georgia dialect is just as good as your Boston accent. Georgetown Magazine, January 1979, 2-4.

Unexpected By-Products of Fieldwork. American Speech Winter 1983, 345-358.

B. LANGUAGE ATTITUDES

Subjective judgments in sociolinguistic analysis. In J. Alatis (ed.) 20th Annual Georgetown Round Table. Washington, D.C.: Georgetown University Press, 1969.

Language and success: Who are the judges? In Words and Ways: Language of Teacher Trainers. Minneapolis: University of Minnesota, 1971.

Sociolinguistics and teacher attitudes in a southern school system. In David M. Smith and Roger W. Shuy (eds.), Sociolinguistics in Cross-Cultural Analysis. Washington, D.C.: Georgetown University Press, 1972.

Social dialect and employability: Some pitfalls of good intentions. Studies in Linguistics. University of Alabama Press, 1972, pp. 145-156.

Language and success. Idiom VII 6:5-13. (Melbourne, Australia).

Stereotyped attitudes of selected English dialect communities. In R. Shuy and R. Fasold (eds.), Language Attitudes: Current Trends and Prospects. Washington, D.C.: Georgetown University Press, 1973.

On discovering language attitudes. In E. Dudley and P. Heller (eds.), American Attitudes Toward Foreign Languages and Foreign Cultures. Bonn: Bouvier Verlag Herbert Grundmann, 1983, pp. 71-93.

C. Research Methodology

Sociolinguistic research at the Center for Applied Linguistics: The correlation of language and sex. In Giornate Internazionali dio sociolinguistica. Rome: Palazzo Baldassini, 1969, pp. 849-857.

The sociolinguists and urban language problems. In Frederick Williams (ed.), Viewpoints, Bulletin of the School of Education, Indiana University 47.2:1-25.

Terminological interference in the study of the social aspects of language. In Sanford newell (ed.), Dimensions: Language 70, Proceedings of the Sixth Southern Conference on Language Teaching. Spartanburg, S.C.: Converse College, 1970, pp. 71-82.

Some problems in studying negro-white speech differences. In Rodolpho Jacobson (ed.), The English Record, Special Anthology Issue, 1971.

Contemporary emphases in sociolinguistics. In R. O'Brien (ed.), 22nd Annual Georgetown Round Table. Washington, D.C.: Georgetown University Press, 1971.

Sociolinguistics as a way of knowing things. In J. Griffith and L.E. Miner (eds.), The Second and Third Lincolnland Conferences on Dialectology. University, Alabama: University of Alabama Press, 1972. 333-347.

The Sociolinguistics Program at Georgetown University. In William K. Riley and David M. Smith (eds.), Languages and linguistics working papers number 5. Washington, D.C.: Georgetown University Press, 1972.

Language and the paradoxical flight from elitism. Semiotica VII 4:352-364.

Some useful myths in social dialectology. Florida FL Reporter XI:17-20, 55 (Spring/Fall 1973).

Sex as a factor in sociolinguistic research. In W.W. Gage (ed.), Language in its Social Setting. Washington, D.C.: Anthropology Society of Washington, 1974, pp. 74-83.

Breaking into and out of linguistics. In F.P. Dinneen, S.J. (ed.), Linguistics: Teaching and Interdisciplinary Relations. Washington, D.C.: Georgetown University Press, 1975.

Toward the description of areal norms of syntax: Some methodological suggestions. Germanistische Linguistik 3-4/77, Marburg/Lahn, 1977, pp. 367-390.

Quantitative language data: a case for and some warnings against. Anthropology and Education Quarterly VII.2:78-82 (May, 1977).

The role of research at the Center for Applied Linguistics. Linguistic Reporter 21.7:6-7 (April, 1979).

Some problems in preparing dialect data for processing. Germanistische Linguistik, 3-4/77, Marburg/Lahn, 1979 pp. 145-158.

Some recent applications of sociolinguistic theory and research. In K. Sajavaara (ed.), Papers from Finnish Summer Schools of Linguistics, Jyväskylä, Finland: University of Jyväskylä, No. 8 (1980):31-63.

Educational linguistics. Die Neueren Sprachen 80.5 (1981):455-468.

The search for content validity through world knowledge. In George Madaus (ed.), The Courts, Validity and Minimal competency Testing. Boston: Kluwer-Nijhoff, 1982, pp. 207-228.

The decade ahead for applied sociolinguistics. International Journal of the Sociology of Language 45:101-111 (1984).

A sociolinguistic view of interpreter training. In M. McIntire (ed.), Proceedings of the Conference in Interpreter Training. Northridge, CA, 1986.

Aspects of language variability and two areas of application. In H.B. Allen and M.D. Linn (eds.), Dialect and Language Variation. New York: Academic Press, 1986.

Ethical issues in analyzing FBI surreptitious tapes. International Journal of the Sociology of Language (1986):119-128.

D. Spoken Language

Detroit speech: Careless, awkward and inconsistent or systematic, graceful and regular? In A.L. Davis (ed.), On the Dialects of Children. Champaign: National Council of Teachers of English, 1968.

Locating the switching devices of oral language. In J. Walden (ed.), Oral Language and Reading. Champaign: National Council of Teachers of English, 1969, pp. 89-99.

The relevance of sociolinguistics for language teaching. TESOL Quarterly, March 1969:13-22.

Bonnie and Clyde tactics in English teaching. Florida FL Reporter, July 1969.

Teacher training and urban language problems. In R. Fasold and R. Shuy (eds.), Teaching Standard English in the Inner City. Washington, D.C.: Center for Applied Linguistics, 1970.

Social dialects: Teaching versus learning. Florida FL Reporter 1:1-2,28-33,55.

Performance contracts and reading: The great oversimplification. Journal of Reading 15.8:604-612.

Speech differences and teaching strategies: How different is enough? In R. Hodges and E. H. Rudorf (eds.), Language and Learning to Read: What Teachers Should Know about Language. Boston: Houghton Mifflin, 1972.

Language problems of disadvantaged children: A sociolinguistic perspective. In J. Irwin and M. Marge (eds.), Principles of Childhood Language Disabilities. New York: Appleton-Century Crofts, 1972.

Current theory and knowledge for the teaching of English. English in Australia 22:25-45.

Whatever happened to the way kids talk? In M. King, R. Emans and R. Cianciolo (eds.), A Forum for Focus. Champaign: National Council of Teachers of English, 1972.

Nonstandard dialect problems: An overview. In J. Laffey and R. Shuy (eds.), Language Differences: Do They Interfere? Newark: International Reading Association, 1973.

Current theory and knowledge for the teaching of English. In The Teaching of English: Australian UNESCO Seminar. Canberra: Australian Government Publishing Service, 1973, pp. 36-44.

The study of vernacular Black English as a factor in educational change. Research in the Teaching of English VII.3 (Winter 1973):297-311.

Sociolinguistic strategies for teachers in a southern school system. Proceedings of the Third International Conference on Applied Linguistics, Vol. II (ed. A. Verdoodt). Heidelberg: Julius Groos Verlag, 1974, pp. 155-171.

On the relevance of recent developments in sociolinguistics to the study of language learning and early education. In O Garnica and M. King (eds.), Language, Children and Society. New York: Pergamon Press, 1978.

The child as communicator. Language Arts September 1979:616-618.

Three kinds of bias in standardized testing. In C. Yorio, K. Perkins and J. Schachter (eds.), On TESOL '79: The Learner in Focus. Washington, D.C.: TESOL, 1979.

Vernacular Black English: Setting the issues in time. In M.F. Whiteman (ed.), Reactions to Ann Arbor: Vernacular Black English and Education. Arlington, VA: Center for Applied Linguistics, 1980.

What do they do at school any day: Studying functional language. In P. Dickson (ed.), Children's Oral Communication Skills. New York: Academic Press, 1981.

The rediscovery of language in education. Educational Leadership, March 1981.

Learning to talk like teachers. Language Arts 58.2 (February 1981), reprinted in Education Digest, May 1981.

What do the researchers know? Language Arts 58.3 (March 1981).

A holistic view of language. Research in the Teaching of English XV.2 (May 1981):101-111.

What should the language strand in a reading program contain? The Reading Teacher 35.7 (April 1982):806-814.

Assessing oral language ability in children. In L. Feagans and D. Farran (eds.), The Language of Children Reared in Poverty. New York: Academic Press, 1982, pp. 181-198.

The importance of understanding function from a sociolinguist's perspective. In L. Feagans and D. Farran (eds.), The Language of Children Reared in Poverty. New York: Academic Press, 1982, pp. 261-264.

Language as a foundation for education: The school context. Theory Into Practice Summer 1984:167-174. Reprinted in The Education Digest May 1985:21-23.

A szociolingvisztika ufabb eredmenyeinek alkalmazhatosaga a nyeivanulasnak es az iskolazas kezdeteinek tanulmanyozasaban. In György Szepe (ed.), Az anyanyelui neveles fejlesztesenek nemzetkozi tapasztalatai. Budapest: Tankonyukiado, 1985, pp. 211-239.

Dialogue as the heart of learning. Language Arts 64.8 (Dec. 1987):890-897.

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E. Literacy

Linguistic principles applied to the teaching of reading. Reading and Inquiry X:242-244 (1965).

Starting a reading program for speakers of sub-group dialects. Highlights 1966:51-58.

In what dialect will they read? In New Directions in Reading. New York: Bantam, 1967.

Some language and cultural differences in a theory of reading. In K. Goodman and J. Fleming (eds.), Psycholinguistics and Reading. Newark: International Reading Association, 1969.

A linguistic background for developing reading materials for black children. In Teaching Black Children to Read. Washington, D.C.: Center for Applied Linguistics, 1969.

Some considerations for developing reading materials for ghetto children. Journal of Reading Behavior II (Spring 1969).

Social dialect research and interdisciplinary conflict. The Reading Specialist VII.3:41-44.

Some relationships of linguistics to the reading process. Teachers' Manual, Reading 360. Boston: Ginn and Company, 1969, pp. 8-15.

Language variation and literacy. In J. Alan Figurel (ed.), Reading Goals for the Disadvantaged. Newark: International Reading Association, 1970.

Some things that reading teachers need to know about language. In H. Klein (ed.), The Quest for Competency in Teaching Reading. Newark: International Rading Association, 1972, pp. 141-150.

Interdisciplinary perspectives on change in teacher education. In H. Sartain and P. Stanton (eds.), Modular Preparation for Teaching Reading. Newark, Del.: International Reading Association, 1974, pp. 271-292.

Pragmatics: Still another contribution of linguistics to reading. In S. Smiley and J. Towner, Language and Reading, The Sixth Western Symposium on Learning, 1975, pp. 36-48.

Sociolinguistics. In R. Shuy (ed.), Linguistic Theory: What Can It Say About Reading? Newark, Del.: International Reading Association, 1977, pp. 80-94.

Linguistic considerations in the simplification/clarification of insurance policy language (co-author). Discourse Processes I (1978):305-321.

The consumer and insurance policy language. In Proceedings of Consumers and Life Insurance: An Exchange of Views. U.S. Office of Consumer Affairs, May 15-16, 1978, pp. 19-34.

The literacy crisis: What can be done about it? Quest (Department of Education, Queensland) 24 (April 1978):43-54.

What children's functional language can tell us about reading, or, How Joanna got herself invited to dinner. In R. Beach and P.D. Pearson (eds.), Perspective on Literacy, College of Education, University of Minnesota, 1978, pp. 78-96.

Toward future study of the effect of school setting on learning. In Perspectives on the Instructional Dimensions of Study. Washington: National Institute of Education, 1978, pp. 40-49.

Reading and dialect differences. In Dialects and Educational Equity Series. Washington, D.C.: Center for Applied Linguistics, 1979.

Language development in the field of writing. In J. Maling-Keepes and B. Keeps (eds.), Language in Education. Canberra: Curriculum Development Centre, 1979, pp. 269-278.

The mismatch of child language to school language: Implications for beginning reading instruction. In L. Resnick and P. Weaver (eds.), Theory and Practice of Early Reading. Hillsdale, N.J.: Lawrence Erlbaum Associates, 1979.

Balanced decoding and comprehension in a good reading program. Ginn Occasional Papers, Number 5, 1980.

Closing remarks. In A. Humes (ed.), moving Between Practice and Research in Writing. Los Alamitos, Cal.: SWRL Educational Research and Development, 1981.

Four misconceptions about clarity and simplicity. Language Arts 58.5 (May 1981).

Toward a developmental theory of writing. In C. Frederiksen and J. Dominic (eds.), Writing: The Nature, Development and Teaching of Written Communication. Hillsdale, N.J.: Lawrence Erlbaum Associates, 1981, pp. 919-929.

Analysis of language functions in dialogue journal writing, in J. Staton, R. Shuy and J. Kreeft, Analysis of Dialogue Journal Writing as a Communicative Event, Vol. II. Final Report to NIE. Washington, D.C.: Center for Applied Linguistics, 1982.

The function of complaining, in J. Staton, R. Shuy and J. Kreeft, Analysis of Dialogue Journal Writing as a Communicative Event, Vol. II. Final Report to NIE. Washington, D.C.: Center for Applied Linguistics, 1982.

Importance of the reading teacher's knowledge. The Education Digest April 1982:54-58.

The oral language basis of dialogue journal writing, in J. Staton, R. Shuy and J. Kreeft, Analysis of Dialogue Journal Writing as a Communicative Event, Vol. II. Final Report to NIE. Washington, D.C.: Center for Applied Linguistics, 1982.

Finding a sense of wonder in language and literacy. In College Reading. New York: Instructional Resource Center, 1983, pp. 23-34.

Dialogue journals and reading comprehension. Dialogue III.1 (December 1985).

A comparison of oral and written language functions. K. Jankowsky (ed.), Scientific and Humanistic Dimensions of Language. Amsterdam: Benjamins, 1985, pp. 471-482.

Changing linguistic perspectives on literacy. In J. Orasanu (ed.), Reading Comprehension: From Research to Practice. Hillsdale, N.J.: Lawrence Erlbaum Associates, 1986, pp. 77-88.

Changing language policy in a bureaucracy. In P. Lowenberg (ed.), Language Spread and Language Policy. Washington, D.C.: Georgetown University Press, 1988, pp. 152-174.

Talking our way into writing and reading: Dialogue journal practice. In B.A. Rafoth and D.C. Rubin (eds.), The Social Construction of Written Communication. Norwood, N.J.: Ablex Publishing, 1988, pp. 195-217.

F. Bilingualism

Implications of recent sociolinguistic research for the problems of migrant worker children. In M. deGreve and E. Rosseel (eds.), Problèmes Linguistiques des Enfants de Travailleurs Migrants. Brussells: AIMAV, 1977, pp. 187-209.

Multilingualism as a goal of education policy. In B. Kachru (ed.), Linguistics in the Seventies: Directions and Prospects. Urbana, Ill.: Department of Linguistics, 1978, pp. 107-123.

Bilingualism and language variety. In J.E. Alatis (ed.), International Dimensions in Bilingual Education. Washington, D.C.: Georgetown University Press, 1978.

Problems in assessing language ability in bilingual education programs. In H. La Fontaine et al. (eds.), Bilingual Education. Wayne, N.J.: Avery Publishing Co., 1978, pp. 376-381.

Toward a cross-disciplinary view. In Bilingual Education: Current Prespectives, Synthesis. Arlington, Virginia: Center for Applied Linguistics, 1978, pp. 82-88.

On the relevance of recent developments in sociolingustics to the study of language learning and education. In G. Szepe (ed.), Studies in Mother Tongue Education. Pisa: AILA Bulletin No. 21, 1978, pp. 77-105.

A sociolinguistic framework for bilingualism in the classroom. In H. Baetens Beardsmore (ed.), Elements of Bilingual Theory, Study Series of the Tijdschrift van de Vrije Universiteit Brussel. Brussels, 1981, pp. 93-103.

Conditions affecting language learning and maintenance among Hispanics in the United States. NABE Journal VI.1 (Fall 1981):1-18.

Ohio English. Epic Events 1.4 (Sept. 1988):3-10.

G. Medical Communication

Communications problems in the cross-cultural medical interview. In P. Mozley (ed.), Papers of the Second Annual Conferences on Psychosomatic Obstetrics and Gynecology, Key Biscayne, Florida, 1974.

Recientes investigaciones in sociolinguistica. In El Simposio de San Juan. University of Puerto Rico, 1974, pp. 111-123.

The medical interview: Problems in communication. Primary Care September, 1976:375-386.

The patient's right to clear communication in the medical interview. Leuven, Belgium: ITL, 1977, pp. 1-26.

Language policy in medicine: Some emerging issues. In J.E. Alatis and G.R. Tucker (eds.), Language in Public Life. Washington, D.C.:Georgetown University Press, 1979.

Three types of interference to an effective exchange of information in the medical interview. In S. Fisher and A.D. Todd (eds.), The Social Organization of Doctor-Patient Communication. Washington, D.C.: Center for Applied Linguistics, 1983, pp. 189-202.

H. Linguistics and Law

Can linguistic evidence build on defense theory in a criminal case? Studia Linguistica 35.1-2 (1981):33-49.

Topic as the unit of analysis in a criminal law case. In D. Tannen (ed.), Analyzing Discourse: Text and Talk. Washington, D.C.: Georgetown University Press, 1982, pp. 113-126.

What did the Abscam tapes really say? Linguistic Reporter May 1982:3-4.

Entrapment and the linguistic analysis of tapes. Studies in Language 8.2 (1982):215-234.

Linguistics in other professions. Annual Review of Anthropology 13 (1984):419-445.

The decade ahead for applied sociolinguistics. International Journal of the Sociology of Language 45 (1984):101-111.

Context as the highest standard of semantics: A lawsuit inovlving the meaninging of "Accuracy" in accounting. Journal of English Linguistics 19.2 (Oct. 1986):295-303.

Language and the law. Annual Review of Applied Linguistics, Vol. 7. Cambridge: Cambridge University Press, 1986.

The contributions of a linguist in a criminal case. In S. Fisher and A. Todd (eds.), Discourse and Institutional Authority. Norwood, N.J.: Ablex Publishing, 1987.

Conversational power in FBI covert tape recordings. In L. Kedar (ed.), Language and Power. Norwood, N.J.: Ablex Publishing, 1987.

Comprehensibility in the DWI arrest. The Champion May 1987:23-46.

Linguistic analysis of real estate commission agreements in a civil law suit. In R. Steele and T. Threadgod (eds.), Language Topics: Essays in Honour of Michael Halliday. Amsterdam: John Benjamins, 1987.

VI. PUBLICATIONS: MEDIA

A. FILMS

"Varieties of American English: Regional Dialects." 40 minutes, co-author and performer, U.S. International Communication Agency, 1977.

"Varieties of American English: Social Dialects." 45 minutes, co-author and performer, U.S. International Communication Agency, 1977.

"Varieties of American English: Stylistic Differences." 40 minutes, co-author and performer, U.S. International Communication Agency, 1978.

B. VIDEO TAPES

"Living Language," author and performer, series of twelve 30-minute programs on linguistics for secondary school teachers, WETA, Washington, D.C., 1967.

"American Dialects," 30-minute interview, U.S. International Communication Agency, 1976.

"Language in Education," Sydney (Australia) Educational Television, 1978.

ROGER W. SHUY, Phd

Testimony Given to U.S. House of Representatives and U.S. Senate

March 2, 1982 Testimony before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights (Chairman, Rep. Don Edwards) (FBI oversight)

March 4, 1982 Testimony before the U.S. Senate in the matter of the Senate Ethics Committee hearings concerning U.S. Senator Harrison A. Williams, Jr.

May 24, 1988 Testimony before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Criminal Justice (Chairman, Rep. John Conyers) in the matter of the impeachment hearings for Judge Alcee Hastings

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Federal Criminal Cases in which expert witness testimony was given:

US v. John Poli and John McNown
Nevada Federal District Court
Attorney: Frederick Pinkerton, Reno
1981

US v. John McNown
Nevada Federal District Court
Attorney: Frederick Pinkerton, Reno
1981

US v. S. Stipe and Red Ivy
Oklahoma Federal District court
Attorneys: Carl Hughes, Oklahoma City
S. A. Guiberson, Houston
1981

US v. William Musto et al
New Jersey Federal District Court
Attorneys: Alan Silber, Newark
Joseph Haydon, Newark
1982

US v. Don Tyner
Western District of Oklahoma Federal Court
Attorneys: D. C. Thomas, Oklahoma City
S. A. Guiberson, Houston
1982

US v. T. Coleman and S. Busch
Northern District of Oklahoma Federal Court
Attorneys: S. A. Guiberson, Houston
J. Lang, Tulsa
R. Nook, Tulsa
1983

US v. W. Page
Western District of Oklahoma Federal Court
Attorneys: Warren Gotcher, McAlester
Carl Hughes, Oklahoma City
1983

US v. G. Meacham & C. Lozan
Federal District Court in Baltimore, Maryland
Attorney: Larry Debus, Phoenix

US v. E. Ingram and C. Brantley
Federal District Court in Columbia, S.C.
Attorney: James Moss, Beaufort, S.C.
1984

US v. Natale, Malina and Wash
Federal District Court in Dallas
Attorneys: Steve Sumner, Dallas
Frank Jackson, Dallas
1984

US v. John DeLorean
Federal District Court in Los Angeles
Attorney: Howard Weitzman 1984

US v. Alan Blake, Jack Capra et al
Federal District Court in Minneapolis
Attorney: Joseph Friedberg, Minneapolis 1987

US v. Manuel Vigoa et al
Federal District Court in Newark
Attorney: Alan Silber, New York 1987

US v. Gordon Reeves, Doylin Kile, Charles Kerlegon
Federal District Court in Lafayette, Louisiana
Attorney: Michael Small, Alexandria Louisiana 1988

Roger W. Shuy
2032 48th Street N.W.
Washington, D.C. 20007

CIVIL CASES IN WHICH EXPERT WITNESS TESTIMONY WAS GIVEN

Jack R. Anderson, M.D., The American Academy of Facial Plastic and Reconstructive Surgery, and the American Association of Cosmetic Surgeons, Plaintiffs VS. The Georgia Society of Plastic Surgeons,Inc, William E. Ruger, M.D. and John A. Rusca, M.D. Civil Action File C-93931
Superior Court of Fulton County, Georgia
Attorney: William Maycock, Atlanta libel 1986

ProForm Inc. VS. The Garrett Corporation et al. Chicago
Civil action file 81L4156, 81L4209 consolidated
Attorney: John Adler, Chicago product liability 1987

Quality Inn International VS McDonalds
Baltimore, District Court of Maryland
Attorney: Lawrence Hefter 1988
Civil Action File PN87 2606 trademark

Karen Rinehart VS. International Playtex. Indianapolis
Civil Action File IP87-196C
Attorney: Richard D. Schreiber, Indianapolis 1988
product liability

Roger W. Shuy, Ph.d.
2032 48th Street N. W.
Washington D.C. 20007

State criminal cases in which expert witness testimony was given

Texas v. T. Cullen Davis
Ft. Worth, Texas 1979
Attorney: Richard Haynes (Houston)

Ohio v. Samuel Huggins
Creston, Ohio 1984
Attorney: Daniel O'Brien (Dayton)

Texas v. Robert Gahl
Dallas, Texas 1985
Attorney: Michael Gibson (Dallas)

Florida v. David Clendenning 1985
Sarasota, Florida
Attorney: James Birmann (Sarasota)

Ohio v. Charles Lorraine
Warren, Ohio
Attorney: Ohio Public Defender
Michael Gleespen (Columbus) 1986

Alaska v. Larry Gentry
Anchorage, Alaska
Attorney: Mitchell J. Schapira, (Anchorage) 1986

California v. Laura Troiani
Vista, California
Attorney: Geraldine Russell (San Diego) 1987
(hearing and trial)

California v. Keith Cosby
San Diego, California
Attorney: Allen R. Bloom (San Diego) 1988
(hearing)

Telephone Conversation Between ALH and WAB
October 5, 1981, 5:12 p.m.

1. ***UF:*** Law Office. One moment.
   (Placed on hold)
2. ***UF:*** May I help you?
3. ***ALH:*** Girl; I called long distance and you put me on hold. This is Alcee. How you doing?
4. ***UF:*** I'm sorry; but I have all these lines going in here and I didn't know, if I'd known it was you, they could've waited.
5. ***ALH:*** I understand. Bill's gone?
6. ***UF:*** No. Hold on just a minute.
7. ***ALH:*** Alright.
   (Placed on hold)
8. ***WAB:*** Yes, my brother.
9. ***ALH:*** Hey, my man.
10. ***WAB:*** Um hum.
11. ***ALH:*** I've drafted all those ah, ah, letters, ah, for Hemp...
12. ***WAB:*** Um hum.
13. ***ALH:*** ...and everything's okay. The only thing I was concerned with was, did you hear if, ah, you hear from him after we talked?
14. ***WAB:*** Yea.
15. ***ALH:*** Oh. Okay.
16. ***WAB:*** Uh huh.
17. ***ALH:*** Alright, then.
18. ***WAB:*** See, I had, I talked to him and he, he wrote some things down for me.
19. ***ALH:*** I understand.
20. ***WAB:*** And then I was supposed to go back and get some more things.
21. ***ALH:*** Alright. I understand. Well then, there's no great big problem at all. I'll, I'll see to it that, ah, I communicate with him. I'll send the stuff off to Columbia in the morning.
22. ***WAB:*** Okay.
23. ***ALH:*** Okay.
24. ***WAB:*** Right.
25. ***ALH:*** Bye bye.
26. ***WAB:*** Bye.

Telephone Conversation Between ALH and WAB
October 8, 1981, 9:37 a.m.

1. ***WAB:*** Hello.
2. ***ALH:*** Yes. May I speak with Bill?
3. ***WAB:*** Speaking.
4. ***ALH:*** This is Alcee. How are you?
5. ***WAB:*** How you doin'? Sittin' up here talking to John Crump.
6. ***ALH:*** Is that right?
7. ***WAB:*** Yea.
8. ***ALH:*** My executive who can't spell Hastings. (Laugh)
9. ***ALH:*** Right on my bar card, Ha - stings. (Laugh)
10. ***ALH:*** Listen here, I'll be there in the morning at 10:40.
11. ***WAB:*** Uh huh.
12. ***ALH:*** And I'm coming in on Eastern Flight Number 130.
13. ***WAB:*** Wait a minute, let me, give me a pen, John. Where are you?
14. ***ALH:*** I'm in Albany, Georgia.
15. ***WAB:*** Goddamn, you move around, man.
16. ***ALH:*** Yea, man. I come over here, I got a little speech this morning. One of my frat brothers invited me over.
17. ***WAB:*** Eastern?
18. ***ALH:*** Eastern Flight 130.
19. ***WAB:*** 130. At 10:40.
20. ***ALH:*** Yea.
21. ***WAB:*** Okay.
22. ***ALH:*** Alright, if you, if you are not there, my back-up is, I'll be at the Washington Hilton.
23. ***WAB:*** Okay.
24. ***ALH:*** Couldn't get in the L'Enfant Plaza.
25. ***WAB:*** We can always get you in there.
26. ***ALH:*** Well, if you can, I would prefer it.
27. ***WAB:*** Okay.
28. ***ALH:*** Or if you cannot, I can, I have a reservation at the Hilton.
29. ***WAB:*** Okay.
30. ***ALH:*** Okay.
31. ***WAB:*** Good enough, buddy.
32. ***ALH:*** I'll see you in the morning.
33. ***WAB:*** Right.
34. ***ALH:*** Bye.
35. ***WAB:*** Bye.

1982 Cumulative Supplement

CODE OF LAWS OF SOUTH CAROLINA 1976

Containing Permanent General Statutes, Administrative Regulations, and Court Rules Enacted or Approved During the 1976 through 1982 Sessions of the General Assembly

VOLUME 22

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 125
EXHIBIT 125 HOUSE

THE LAWYERS CO-OPERATIVE PUBLISHING CO.
Aqueduct Building
Rochester, New York 14694
LCP

B. Rule on Disciplinary Procedure

(These rules include those received by the Legislative Council as of July 31, 1982)

SEC.

1. Jurisdiction.
2. Definitions.
3. Composition of Board of Commissioners on Grievances and Discipline.
4. Executive Committee, Composition and Duties.
5. Acts or Omissions as Misconduct.
6. Attorneys Convicted of a Crime.
7. Manner of Discipline.
8. Effect of Discipline.
9. Investigation at Instance of Chairman: Procedure Thereunder.
10. Complaints Against Board Members.
11. Complaints.
12. Hearings by Panels.
13. Filing Formal Complaints and Answers: Extensions of Time.
14. Panel Reports; Actions Thereon.
15. Hearings Before the Court.
16. Form of Return and Briefs.
17. Review by Court.
18. Quorum of Board, Panel Hearing or Executive Committee.
19. Proceedings Where an Attorney is Declared to be Mentally or Physically Incompetent or is Alleged to be Incapacitated.
20. Confidentiality.
21. Service of Notices, etc.
22. Clerk is Agent for Service of Notices on Non-resident Attorneys.
23. Subpoena Power, Witnesses, Depositions and Pre-trial Proceedings.
24. Rule to be Liberally Construed.
25. Certification by the Court.
26. Immunity and Privilege.
27. Disbarment by Consent.
28. Discipline by Consent.
29. Reciprocal Discipline.
30. Disbarred or Suspended Attorneys.
31. Notices
32. Required Records Demonstrating Compliance.
33. Appointment of Counsel to Protect Clients' Interests When Attorney is Transferred to Disability Inactive Status, Suspended, Disbarred, Disappears or Dies.
34. Related Pending Litigation.
35. Delay Caused by Complainant.
36. Availability of Transcript.
37. Reinstatement Procedures.
38. Contents of Petition for Reinstatement.
39. Petition Referred to Committee on Character and Fitness.
40. Action by Committee on Character and Fitness.
41. Committee's Report to be Filed; Procedure Thereupon.

35. Delay Caused by Complainant

Neither unwillingness nor neglect of a complainant to sign a complaint nor to prosecute a charge nor settlement, nor compromise between the complainant and the attorney or restitution by the attorney, shall, in itself, justify abatement of the processing of any Complaint or Grievance.

36. Availability of Transcript

The record of a hearing shall be made available to the Respondent at Respondent's expense on request made provided the Respondent shall have right to inspect records under such safeguards as the Chairman directs.

37. Reinstatement Procedures

No petition for reinstatement to the practice of law shall be filed within two years after the entry of an order indefinitely suspending the petitioner from the practice of law in this state, or within two years after the denial of a petition for reinstatement filed by such petitioner.

A petition for reinstatement to the practice of law by an attorney transferred to disability inactive status shall be in accordance with paragraph 19 of this Rule as well as the foregoing provisions.

Editor's Note—

This section of the rule is derived from former Section 26 of the former Rule on Disciplinary Procedure for Attorneys.

38. Contents of Petition for Reinstatement

A. Subject to the foregoing restrictions, any person who has been indefinitely suspended from the practice of law or who is in a disability inactive status and who wishes to be reinstated may file with the Clerk of this Court his verified petition and ten copies thereof setting forth:

(1) The date when indefinite suspension or disability inactive status was ordered, and, if there was a reported opinion concerning the same, the volume and page of the official reports of this Court where such opinion appears;

(2) The dates upon which any prior petitions for reinstatement were filed, denied or granted;

(3) The names of all persons and organizations, other than the petitioner and the Board, who were entitled under this Rule to receive from the Clerk of this Court certified

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VOLUME 22

COUNCIL

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THE LAWYERS CO-OPERATIVE PUBLISHING CO.
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Rochester, New York 14694

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16. Form of Return and Briefs.
17. Review by Court.
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19. Proceedings where Attorney is Declared to be Mentally or Physically Incompetent or is Alleged to be Incapacitated.
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33. Appointment of Counsel to Protect Clients' Interests when Attorney is Transferred to Disability Inactive Status, Suspended, Disbarred, Disappears or Dies.
34. Related Pending Litigation.
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37. Reinstatement Procedures.
38. Contents of Petition for Reinstatement.
39. Petition Referred to Committee on Character and Fitness.
40. Action by Committee on Character and fitness.
41. Committee's Report to be Filed; Procedure Thereunder.
42. Employment of Resigned or Disciplined Attorneys.

33. Appointment of Counsel to Protect Clients' Interests When Attorney is Transferred to Disability Inactive Status, Suspended, Disbarred, Disappears or Dies

A. If an attorney has been transferred to disability inactive status because of incapacity or disability, or he has disappeared or died, or has been suspended or disbarred, and there is evidence that he has not complied with paragraph 30 of this Rule, and no partner, executor or other responsible party capable of conducting the attorney's affairs is known to exist, the Chairman of the Board, upon proof of the fact, shall appoint an attorney or attorneys to inventory the files of the inactive, disappeared, deceased, suspended or disbarred attorney and to take action as seems indicated to protect the interests of the attorney and his clients.

B. Any attorney so appointed shall not be permitted to disclose any information contained in any files so inventoried without the consent of the client to whom the file relates, except as necessary to carry out the order of the Chairman appointing the attorney to make the inventory.

34. Related Pending Litigation

Processing of grievances or complaints shall not be deferred or abated because of substantial similarity to the material allegations of pending criminal or civil litigation, unless authorized by the Chairman in his discretion, for good cause shown.

35. Delay Caused by Complainant

Neither unwillingness nor neglect of a complainant to sign a complaint nor to prosecute a charge nor settlement, nor compromise between the complainant and the attorney or restitution by the attorney, shall, in itself, justify abatement of the processing of any Complaint or Grievance.

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The record of a hearing shall be made available to the Respondent at Respondent's expense on request made provided the Respondent shall have right to inspect records under such safeguards as the Chairman directs.

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(1) The date when indefinite suspension or disability inactive status was ordered, and, if there was a reported opinion concerning the same, the volume and page of the official reports of this Court where such opinion appears;

(2) The dates upon which any prior petitions for reinstatement were filed, denied or granted;

(3) The names of all persons and organizations, other than the petitioner and the Board, who were entitled under this Rule to receive from the Clerk of this Court certified copies of the disciplinary order of this Court resulting in the petitioner's suspension; or transfer;

(4) The name of the county in which he resides at the time of the filing of the petition, and of each county in which he proposes to maintain an office if reinstated;

(5) The facts upon which he relies to establish by clear and convincing proof that he has rehabilitated himself; and

(6) Proof of professional competence and learning in law, which proof shall include certification by the Bar examiners of his successful completion of re-examination for admission to practice.

B. In any Order of reinstatement the Court may direct that the attorney limit his practice to certain areas of the law; work under the supervision of another attorney; require reports at intervals or any other reasonable requirement that will insure the protection of the public and the administration of justice.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 126

Black,

Jake sent me the draft. As you can see from his letter he is sending the draft to Preston Moore to get his input. I sent Shirley to Washington last week to meet with N. J. Cooper, Jr. (Big Al's son) he now works for H. L. H. He is helping us obtain the audit reports of "White Fisher project owners" and C. We have a total of four (4) so far. They are quite revealing and will be helpful in showing the Court the "owners" intent. Shirley also went to the Justice Dept. and the Inspector General Senator Cranston Pickett took her. They both promised to monitor my hearing in Col and we gave the Justice Dept. the audit reports showing how white owners have been and still are receiving rents from projects. C. Barnes and they also promised to take criminal action against the whites. I am encouraged Black and have the strength to keep fighting!! But, I need your help, all this is costing money. Don't let me down, raise some money & help keep me going and pay Jake.

Peace
Hampton
"Bo"

P.S. Jake to your mother. If you can add anything to the draft that may be helpful please do.

J.4.

UNITED STATES DISTRICT COURT
FEDERAL PROBATION SYSTEM

ADDRESS

ION OFFICE

PERMISSION TO TRAVEL

DATE January 20, 1982

Mr. Hemphill Pride

YOU ARE AUTHORIZED TO TRAVEL TO Washington, D. C.
(1435 4th Street, S. W., Apt. B-8-11)

LEAVING January 21, 1982 AND RETURNING January 24, 1982

WITHIN 24 HOURS AFTER YOUR RETURN YOU WILL CONTACT THIS OFFICE.

PURPOSE OF THIS TRIP:

To visit with friend, Mr. John Shorter

SPECIAL INSTRUCTIONS: (INCLUDE REQUIREMENTS OF CRIMINAL REGISTRATION ORDINANCES IN TRAVEL AREA. ALSO INCLUDE INSTRUCTIONS FOR REPORTING IN DESTINATION DISTRICT.)

Please call this office upon your return.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 127

COPY MAILED TO CHIEF PROBATION OFFICER
IN DISTRICT OF DESTINATION:

UNITED STATES PROBATION OFFICER

NAME N/A

ADDRESS

FPI-668—7-27-78-1000-8503

IC269

EXHIBIT
127
HOUSE

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

1 Date of transcription 3-15-82

Thomas P. Simpson, Attorney at Law, associated with firm of Xing, Vernon and Gambrell, 1426 Richland Street, Columbia, South Carolina, furnished the following information:

At 9:35 a.m., March 12, 1982, he met with his client, Memphill P. Pride, II, Apartment 6B, Middleborough Apartments, 1825 St. Julian Place, Columbia, S. C. At that time, Pride turned over to him a cassette tape recorder containing a cassette tape on which Pride had recorded a telephone conversation between himself and Alcee L. Hastings, U. S. District Judge, Miami, Florida. Mr. Simpson provided the original tape to SA William D. Simmons at 10:45 a.m., March 12, 1982.

A duplicate of the original tape was made and thereafter the following transcript of the recording was made:

EXHIBIT 128 HOUSE

Investigation on 3-12-82 at Columbia, South Carolina File # CO 58-126

by SA WILLIAM D. SIMMONS:rtb Date dictated 3-12-82

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

ENCLOSURE 58-12163-99X

Date: March 11, 1982
Time: P.M.
Participants: HEMPHILL P. PRIDE, II
ALCEE L. HASTINGS
Type of Call: Consensual

UNKNOWN FEMALE: Having trouble?

PRIDE: No operator, that was me. Al...

HASTINGS: Yeah

PRIDE: That was me. I was trying..I had somebody on the other line and I was trying to tell them to hold on but undoubtedly they hung up.

HASTINGS: Oh, you lost them?

PRIDE: Yeah, mom told me you called.

HASTINGS: Yeah, you get used to having ah...call wait. You don't, you don't have enough trouble with telephones, you gotta have two or three. (Laugh)

PRIDE: Yeah, you know how I was. I always had to answer the phone, boy.

HASTINGS: I hate them mothers.

PRIDE: I ain't changed a bit. (Buzz) Hold on one minute.

HASTINGS: Yeah

****

(Continues with call that was cut off in beginning)

PRIDE: Hello

UNKNOWN MALE: Hey, I got cut off.

PRIDE: J. T.

UNKNOWN MALE: Yeah

PRIDE: That's somebody calling me long distance, let me call you right back.

UNKNOWN MALE: I hear you ya.

PRIDE: Okay

UNKNOWN MALE: Bye bye.

****

(Continues with call with HASTINGS)

PRIDE: Yeah

HASTINGS: Uh huh. How did the operator get in on it?

PRIDE: Huh?

HASTINGS: How did the operator get in on it?

PRIDE: How did the operator?

HASTINGS: Yeah just then when the operator came in and asked are you having trouble?

PRIDE: I don't know. How did you call? Did you call direct or did you call person to ....

HASTINGS: I called direct.

PRIDE: I don't know what that is.

HASTINGS: Yeah. Now don't worry about it. Any way, because I'm not calling about any particularized problem that can't be discussed in general. One thing I wanted to ah...ah..say to you and then there's a question that I wanted to ask you and ah...I think I'm entitled to ah..know ah...the answer in light of the present posture of ah, you know, the situation. I talked with someone here that

indicated to me that ah, Weingarten had been to Columbia and had spoken with you. And as a result of that I thought that it would be wise if I called and asked you one, or what if anything did he say to you and what if anything did you say to him. I'm entitled to know that and if it was being listened to it wouldn't be obstruction of justice. The other thing is totally ah, ah, social in a sense, but at the very same time, impacts this case and I'm gonna ask you to do this for me. Blood Jimmy Cobb, George Allen and all the people that all of us have ever known. O. T. and all of them people are not the FBI and are not at all involved in this case to the extent that they can make any decisions about anything. And I would only hope that anything that they had..are saying or have said, doesn't impact you in any way or...and I, I say that with a great deal of feeling because I do know especially that some of them have been talking and I don't know whether any of that talk has arrived at you. Unless you hear something from me, I can assure you that I don't have nothing to do with any of the social bullshit that they're talking about. So, I just wanted to leave that with you. The other thing I need to know from you is just ah...what did Weingarten say to you and ah...I'm speaking in the capacity as my own attorney. And with that in mind, I don't think there's any problem with me interviewing you with regard to it.

PRIDE: He served me with a subpoena.

HASTINGS: Uh huh

PRIDE: To appear in Atlanta.

HASTINGS: Yeah

PRIDE: And also told me that ah, they..you know, when I was to be there and that they were going to review my Grand Jury testimony with me again.

HASTINGS: Right

PRIDE: And he also asked me about ah...you know.... (Buzz) being here....hold on...

HASTINGS: Yeah

PRIDE: I, I hate to keep interrupting you but...

HASTINGS: That's all right, brother.

PRIDE: ...somebody....

****

(Takes call on another line)

PRIDE: Hello

FEMALE: Where have you been?

PRIDE: Where are you now?

FEMALE: At Taylor Street.

PRIDE: All right. Ah....are you coming this way?

FEMALE: I...wherever...what do you wanna do?

PRIDE: Come this way and wait outside for me. I'll meet you out there. Where you usually park.

FEMALE: Yeah, all right.

PRIDE: Okay then.

****

(Continues with call from HASTINGS)

PRIDE: Hello

HASTINGS: Yeah

PRIDE: Yeah. What was I saying?

HASTINGS: You were saying that he ah...

PRIDE: Oh yeah, told me that he...when to be there and that they were going to review my Grand Jury testimony.

HASTINGS: Right

PRIDE: Asked me when...when...you ah..when had you come here.

HASTINGS: Yeah

PRIDE: And I told him that you had and under what conditions.

HASTINGS: Yeah

PRIDE: Yeah

HASTINGS: Okay. So then he didn't indicate to you that ah... that FBI was following me or anything like that?

PRIDE: No, he did not.

HASTINGS: Okay. Well I was concerned because ah...I didn't know whether Joel Hershon, the fella that was working for me or Swerling? Had ah, called Reid Weingarten and told him, you know, and I was just about to raise the roof if that was the case and I...I painted in my mind at least the scenario that you described and that's perfectly legitimate for him to have asked and it's perfectly legitimate for you to have responded the way that you did. You know, so I don't have any problems with it, but I was just mad as hell with my lawyer because he had tended to talk ah, to Weingarten a little more than I wanted him to any how, you understand

PRIDE: Uh huh

HASTINGS: So that's about what that..all...ah, was all about and he led me or at least I was led to believe down on this end that it meant that they were following me around and had given you a blow by blow account of ah...you know, our meetings so I'm happy to hear tha

PRIDE: No

HASTINGS: Real happy to hear that.

PRIDE: No, he interviewed me....

HASTINGS: Yeah

PRIDE: ...in regards to your coming and also in regards to my interview with John in Washington.

HASTINGS: I understand.

PRIDE: Yeah

HASTINGS: So as that turns out then you indicated to him that Swerling was present.

PRIDE: Yeah

HASTINGS: Very good. So then I don't have any problems because that's the truth of the situation. Okay. That's all I needed to know. How you doing?

PRIDE: Pretty good, Al. You know, just...a little nervous - behind this whole fucking shit.

HASTINGS: Hye man, hang loose.

PRIDE: Yeah

HASTINGS: You know, and the reason I say hang loose, number one... I....I know how...basically now, having after ah... been there and talked with you in Swerling's office exactly what your concern is and it's a legitimate concern.

PRIDE: Yeah

HASTINGS: And that is whether or not this situation is going to impact your licenses or and the restoration of things. Number one.....

PRIDE: Well....

HASTINGS: You ain't got no business doing that because you haven' done a God.....

PRIDE: Well.....

HASTINGS: ....damn thing.

PRIDE: Well I understand that.

HASTINGS: All right.

PRIDE: But ah...I'm not talking about from that stand point. I mean just purely from the stand point of, of that gossip about Reid saying that I'm the star witness. You know, I've heard that...

HASTINGS: Oh man, fuck a Reid Weingarten. That's, that's their whole premise. Is to get people upset. It's the same thing as Jimmy Cobb saying that you are in the middle of this shit and caused me and Bill to do something... Hemp get that out of your mind. Deal with the reality of the situation.

PRIDE: Yeah

HASTINGS: Just deal with the reality of it. You ain't no fucking star witness. You don't...and...and... in the final analysis have a God damn thing that you can tell Reid Weingarten no more than my mama or your mama can. You understand?

PRIDE: Yeah

HASTINGS: And don't let that be...ah...thrown off. I think what he is going to try to do with you and speaking as my own attorney and...laying up the scenario....he is gonna try to establish with you ah...the fact that Bill Borders and I are quote friends unquote and that's left to your judgement as to a characterization and I'm not suggesting to you nor would I dare suggest to you what your characterization is going to be. But that's the principal angle of their God damn case. Fuck a Reid Weingarten. That's why I got rid of that damn lawyer that I had. He couldn't say that. He couldn't say fuck you Reid, I'll see you in court. And man that's what has to happen in this case. These people are after my ass.

PRIDE: Umm.

HASTINGS: You understand.

PRIDE: Yeah I....

HASTINGS: So don't you wor....I ain't worried about you. If I ain't worried about you, ain't no God damn body unless it's Bill would have a reason to be worried about you. I ain't worried at all. You haven't offended me by anything you've done. You haven't offended me by anythi you said. And I don't give a shit what Jimmy Cobb says, I don't give a shit what nobody says and Reid Weingarten so long as you and I understand each other.

PRIDE: Uh huh

HASTINGS: You understand me?

PRIDE: Okay.

HASTINGS: Really. So don't be nervous about that. Fuck.... and if, if it is, that you are his star witness, it is only that he thinks you have some information that you might be able to provide to him and that's his, that's his right as a lawyer to try to pump out of you whatever he can.

PRIDE: Yeah

HASTINGS: And I ain't gonna say nothing to you about how you supposed to testify. I been around too long to do that And I am not going to offend you. Hell, you a man and a lawyer. And you have enough trouble of your own not to have me and Bill Borders to add to your trouble.

PRIDE: And...and that's for sure.

HASTINGS: You see.

PRIDE: Yeah

HASTINGS: So,,just, just don't...

PRIDE: And that's...

HASTINGS: ...don't let him shake you by that. It didn't shake me. When I came there to ask you that, I wanted you to know that that's where the motherfucker was coming from. That's all. Not because I'm scared one God damn bit about anything that you may say. I don't have to worry about you saying nothing, no more than I do Hempy, or, Reggie saying a God damn thing. You understand? (Laugh) So that's where I am. I... your mama sounded good. She doing all right?

PRIDE: Yeah, she's doing okay.

HASTINGS: My mama had lot of drinks last week, so she's great.

PRIDE: Yeah (Laugh) Yeah

HASTINGS: But not because of the situation. Ah...anyway, you hang tough and don't be at all surprised if you ah... see me in Atlanta, not see me personally, but see me at court, or don't let that ah, stimey you at all. I figured that the easiest thing to do is to give these sonofabitches just what I've given them. And that's a moving target. They're not playing with somebody that doesn't understand what they're playing with and nor are they playing with anybody that's afraid Blood. I ain't scared at all. I ain't nervous at all. You understand me?

PRIDE: Yep.

HASTINGS: And I mean that now. I mean it, you know. Consequences notwithstanding, that's how I feel and all in all, I'm in pretty good shape. I been moving around trying to do some of the things that ah, I think that you would agree with and that's to try to raise some money. I done hit an issue already down here that's gonna cost me $15,000 and that's the one concerning Impeachment versus Prosecution? And I won't go into details about it but ah...that's an issue that may go all the way to the United States Supreme Court even before I'm tried.

PRIDE: Uh huh

HASTINGS: You know. So, as it turns out man, you just hang tough and don't you...one thing he can't get into (laugh) and ah

one thing that they have alot of trouble with and that's whether or not ah..I'm orchestrating my own defense? And they can name it anything they want to. Ah, that's why I arranged when I talked with you to make sure that a lawyer was present? So as how they wouldn't have any problems, but they'll see the rest of it in due time and it's just a matter of time before that.

Anything else there?

PRIDE: Nothing. Just hanging tight boy.

HASTINGS: Hey, you do the same. How you doing financially?

PRIDE: Ah, broke, shit.

HASTINGS: Yeah. Happens to ...ah...told by ah..some people on this end, he wanted to know ah..were you paying the lawy. I was glad you gave him the answer that I heard you gave him and that was that that wasn't any of his God damn business.

PRIDE: Oh yeah

HASTINGS: You know, it was...I know what their intimation there is, you know.

PRIDE: Ummmm.

HASTINGS: But any way, do your best man and about yourself and about your family and don't you be too worried about me and Bill. Hemp, I maintain if you don't do nothing but tell the truth, it won't be damaging to anybody.

PRIDE: Yeah, well I know that.

HASTINGS: All right?

PRIDE: Okay

HASTINGS: I'll talk to you soon.

PRIDE: All right

HASTINGS: Bye

PRIDE: Bye

****

United States Senate

EVIDENTIARY SURVEILLANCE LOG

HOUSE MANAGERS' EXHIBIT 129

EXHIBIT 129 HOUSE

1 of 1 [illegible]

DATE October 9, 1981 FILE # 58-1899

LOCATION: NATIONAL AIRPORT, ALEXANDRIA, VA.

RE:

On October 3, 1981 a surveillance was instituted in the vicinity of NATIONAL AIRPORT, ALEXANDRIA, VA., and the following observations were made:

9:30 A.M. Surveillance Began.

10:06 A.M. WILLIAM A. BORDERS' vehicle (W.D.C. license plate 375081) (brown Cadillac) drives past Main Terminal NATIONAL AIRPORT, Alexandria, VA., vehicle enters parking lot south of the Main Terminal directly above the North Terminal and parks the vehicle.

10:18 A.M. BORDERS enters Main Terminal and stands in the area of Gate 20 Eastern Airlines.

10:38 A.M. MJ BORDERS and ALGEE HASTINGS leave area of Gate 20 and exit Main Terminal area at doors for Eastern Airlines. HASTINGS described as wearing a light blue leisure suit, western style, carrying a suit bag and a hand held bag.

10:44 A.M. MJ BORDERS and HASTINGS arrive at Borders vehicle bearing W.D.C. license plate 375081. Suit bag and hand held bag placed in trunk of vehicle.

10:46 A.M. MJ BORDERS and HASTINGS enter vehicle bearing W.D.C. license plate 375081 and depart the parking lot.

10:50 A.M. BORDERS and HASTINGS arrive in area

IC 145

2 of 5

SURVEILLANCE LOG

DATE FILE #

LOCATION

BY

of L'ENFANT PLAZA HOTEL, 480 L'ENFANT PLAZA EAST, SW, WDC., park vehicle bearing W.D.C. license plate 375081 and enter the Hotel, proceed to registration desk. Hastings carrying a hard sided bag.

10:52 A.M. BORDERS and HASTINGS engage in a conversation with Black female employee wearing a blazer jacket worn by Hotel desk personnel. HASTINGS momentarily embraces the B/F employee described as: attractive, light complexion, black hair, in early thirties. The B/F employee carrying several keys and followed by a bell boy (white/male) pushing a baggage cart bearing a suit travel bag and possibly other luggage accompanies BORDERS and HASTINGS to the elevator, BORDERS and HASTINGS the female (B/F) employee and the bell boy (w/m) enter the elevator and depart on the eleventh floor.

11:17 A.M. BORDERS and HASTINGS exit L'ENFANT PLAZA HOTEL through front door. BORDERS and HASTINGS proceed to the vehicle (375081 WDC). HASTINGS places a briefcase in the trunk of the vehicle and enters on the passenger side.

8 of 5 1113

SURVEILLANCE LOG

DATE _____ FILE # _____

LOCATION _____

SA _____

Borders gets behind the steering wheel and the vehicle departs the area.

11:22A.M. Borders and Hastings ~~exit~~ arrive in area of U.S. Superior Court, 500 Indiana Ave. N.W. WDC. and park vehicle. (375081 WDC) and enter the building.

11:29A.M. Borders and Hastings exit U.S. Superior Court and enter vehicle. (375 081 WDC) and depart area.

11:38A.M. Borders and Hastings arrive and park in the area of W&W Liquors 1549 7TH St. N.W. WDC. corner of 7TH & Q St. N.W. WDC. Borders and Hastings enter W&W Liquors.

11:40AM-11:42AM Borders and Hastings exit W&W Liquors accompanied by an apparent store employee carrying personal books. Borders opens trunk and Hastings ~~thereof~~ relocating briefcase in trunk. Store employee places books in trunk. Borders and Hastings enter vehicle and depart area.

11:47A.M. Borders and Hastings arrive in area of 1621 New Hampshire Ave. N.W. WDC., vehicle (375081 WDC) parked in rear of buildings.

11:53A.M. Borders and Hastings in rear of 1621 New Hampshire Ave. N.W. WDC. Borders on Scene

4 of 15 pgs

SURVEILLANCE LOG

DATE FILE #

LOCATION

SA

side and HASTINGS on passenger side of vehicle (375081 WDC).

11:55AM Vehicle (375081 WDC) still parked in same location unoccupied.

11:35AM-11:58AM Walked down alley off 17TH ST. N.W. between R ST. and CORCORAN ST. N.W. west bound. Observed heavy set Black/male and Black/female walking west bound alley. Vehicle (375081 WDC) parked unoccupied behind 1621 New Hampshire Ave. N.W. WDC.

12:02 p.m. BORDERS departs rear of 1621 New Hampshire Ave. N.W. WDC. rear of building driving vehicle (375081 WDC).

12:12 p.m. BORDERS in vehicle (375081 WDC) last observed in area of 13TH & Pennsylvania Ave. N.W. WDC.

2:09 p.m. Black/Female' depart rear door of 1621 New Hampshire Ave. N.W. WDC. B/F enter vehicle (457 203 WDC). B/F described as follows: Height 5'7" Weight 135-145 lbs, age late 20's wearing red leather coats

2:39 p.m. Black/Female' in vehicle (457 203 WDC) enters rear door 1621 New Hampshire Ave. N.W. WDC after parking vehicle in rear area.

3:07 p.m. Black/Female' departs rear door of 1621 New Hampshire Ave. N.W. WDC, enter vehicle (457 203 WDC)

525

SURVEILLANCE LOG

DATE _____ FILE # _____

LOCATION _____

SA _____

and depart area.

3:17p.m. B/F' in vehicle (457203 WDC) arrives and parks in area of 508 5TH ST. N.W. WDC. B/F' enters office of MITCHELL, SHORTER, and GARTRELL at 508 5TH ST. N.W. WDC.

3:22p.m. B/F② exits 508 5TH ST. and moves a Cadillac bearing Maryland license plate AJC-297 from one space to another then re enters 508 5TH ST N.W. WDC.

3:35p.m. B/F① exits 508 5TH ST N.W. enters vehicle (457203 WDC) and departs area.

3:38p.m. B/F① arrives in area of 6TH & L ST N.W. WDC parks vehicle (457203 WDC) and enters law office.

3:45p.m. Advised to discontinue surveillance of B/F driving vehicle (457203 WDC).

3:45p.m. Advised to discontinue surveillance in area of 1621 New Hampshire Ave. N.W. WDC

Richard C. Blake II, SA, FBI, WDC 10-9-81

Thomas O. Rumyle Jr., SA, FBI, WDC 10-9-81

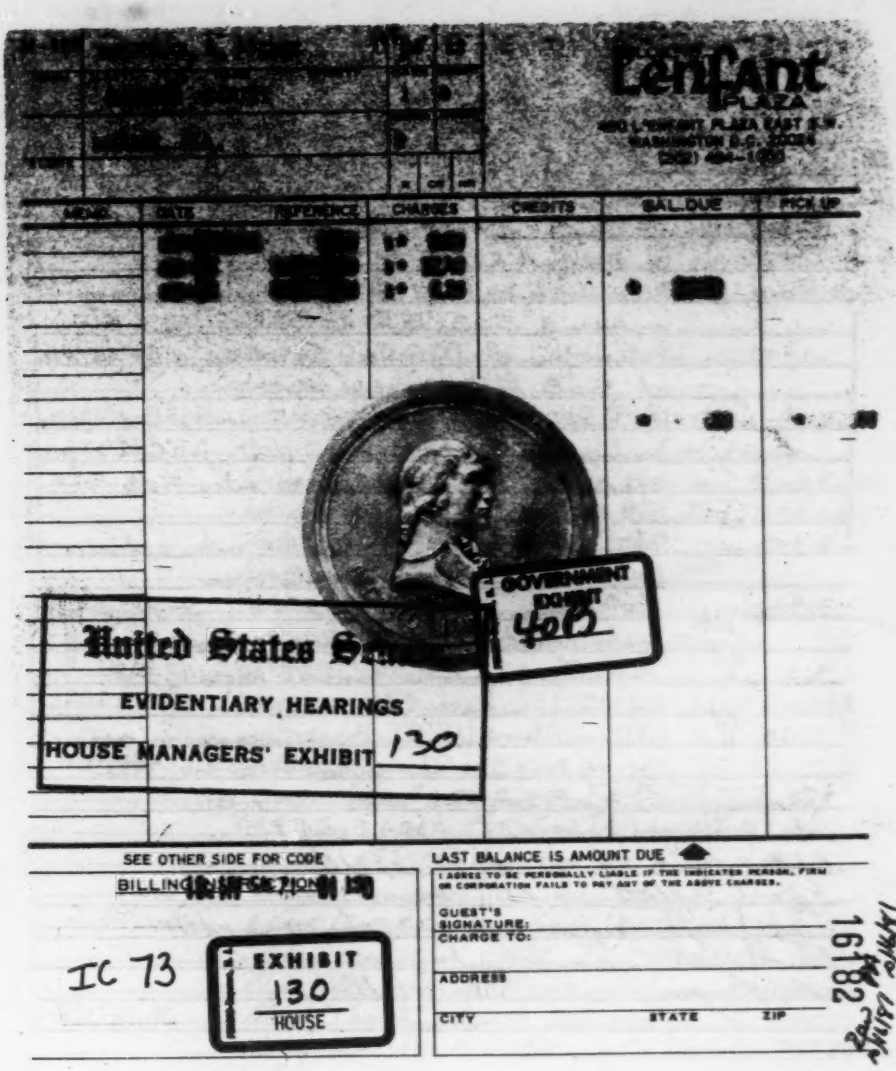
Robert J. Wheat SA. FBI. WDC 10/9/81

William L. Stafford SA FBI WDC 10/9/81

Carl Joseph Ferguson SA FBI WDC 10/9/81

[illegible] Special Agent, FBI in DC 10/9/81

R.J. Thompson, SA, FBI, WDC 10/9/81


L'Enfant
PLAZA
MEMO
DATE
REFERENCE
CHARGES
CREDITS
BAL. DUE
PICK UP
GOVERNMENT
EXHIBIT
United States
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 130
SEE OTHER SIDE FOR CODE
LAST BALANCE IS AMOUNT DUE
I AGREE TO BE PERSONALLY LIABLE IF THE INDICATED PERSON, FIRM OR CORPORATION FAILS TO PAY ANY OF THE ABOVE CHARGES.
GUEST'S SIGNATURE:
CHARGE TO:
ADDRESS
CITY
STATE
ZIP
IC 73
EXHIBIT
130
HOUSE

231 Mitchell, Frank
11/239 [illegible]
229
Suite 2900 100 N. Main
Memphis, Tennessee 38103

280 10/10
1 10/9

LOEWS L'Enfant PLAZA
480 L'ENFANT PLAZA EAST S.W.
WASHINGTON D.C. 20024
(202) 484-1000

MEMO	DATE	REFERENCE	CHARGES	CREDITS	BAL.DUE	PICK UP
				P* 310.10	* [illegible]	P* 310.10
			P* [illegible]			
			P* [illegible]		* [illegible]	
			P* 240			
			P* 295			
			P* 133.96		* [illegible]	

GOVERNMENT EXHIBIT 40A

Dec 10 5 42 PM '81

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 131

SEE OTHER SIDE FOR CODE

BILLING INSTRUCTIONS

LAST BALANCE IS AMOUNT DUE

I AGREE TO BE PERSONALLY LIABLE IF THE INDICATED PERSON, FIRM OR CORPORATION FAILS TO PAY ANY OF THE ABOVE CHARGES.

GUEST'S SIGNATURE:
CHARGE TO:
ADDRESS
CITY STATE ZIP

IC 72

EXHIBIT 131 HOUSE

15750

L'Enfant PLAZA

DIAL "6" for service

VALET LIST

NAME Judge Hastings
ROOM # 11-239
DATE 10/9

COUNT Guest	COUNT Office	123 B* 8.00 MEN'S	CIRCLE Dry Clean	CIRCLE Press Only	AMOUNT
		SUITS, 2 PC	$ 6.75	5.50	
1		SUITS, 3 PC	8.00	6.00	8.00
		SPORT COATS	4.25	3.00	
		TROUSERS	2.50	1.75	2
		TIES	1.95	1.50	
		SHIRTS	4.00	3.00	
		SWEATERS	4.00	3.00	
		TOP COATS	8.00	6.00	
		DINNER SUITS	7.75	5.75	
		LADIES'			
		DRESSES from	7.75	5.75	
		SUITS	6.50	4.75	
		SKIRTS	2.50	1.75	
		JACKETS	4.25	3.00	
		BLOUSES	4.00	3.00	
		COATS	8.00	6.00	
		EVENING GOWNS from	18.00	13.50	
		SWEATERS	4.00	3.00	
				TOTAL	8.00

IC 81 11-239

SAME DAY SERVICE

Items received by 9 A.M. returned by 6 P.M. No service Saturdays, Sundays or Holidays. Unless list accompanies bundle, our count must be accepted as correct.

United States Senate

PLEASE PUT VALET TICKET IN LAUNDRY BAG

EVIDENTIARY EXHIBITS

Since we are not responsible for anything of value left in pockets or fastened to garments, please remove before sending to valet.

HOUSE MANAGERS' EXHIBIT 132

HAVE A HAPPY DAY

PS 10/9/87 Rec'd 10/14/87

3M-4/81-APS

EXHIBIT 132 HOUSE

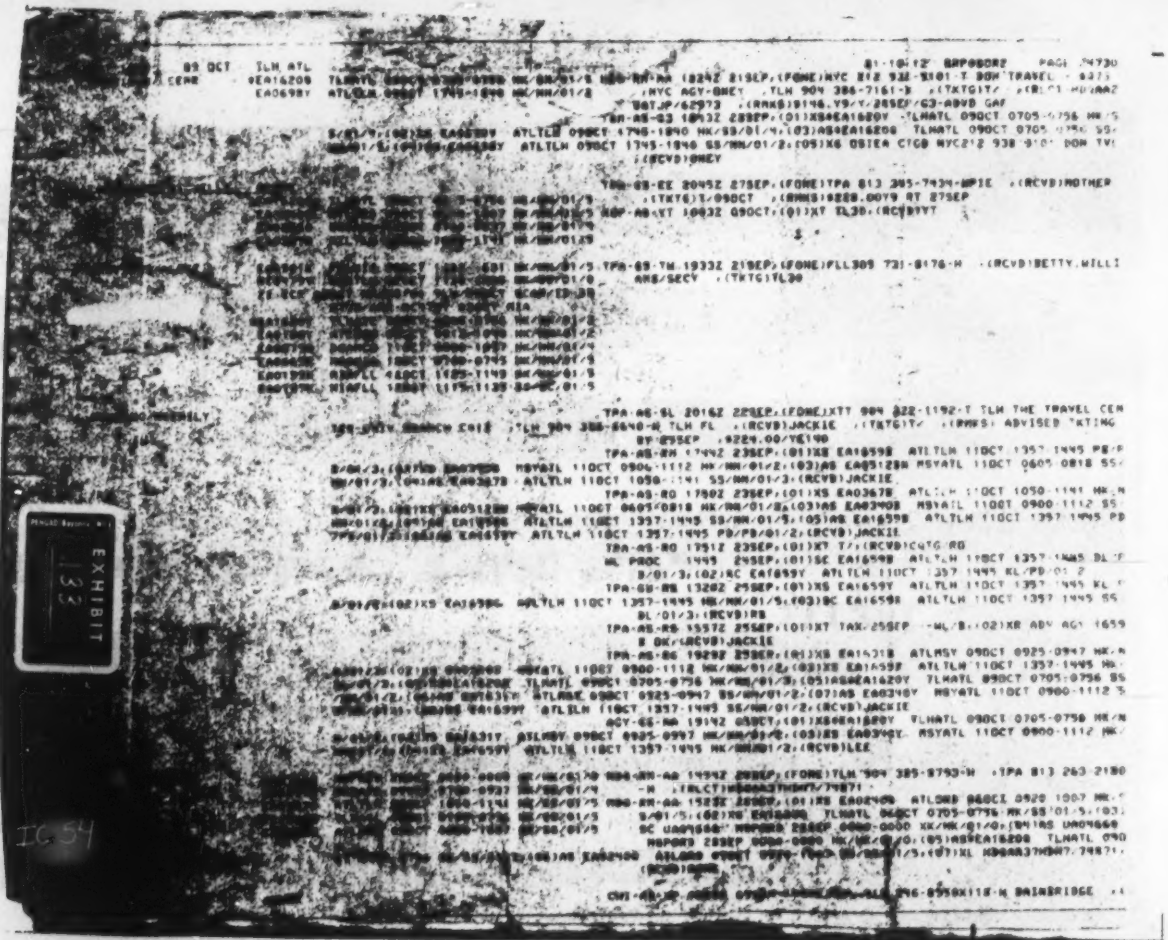
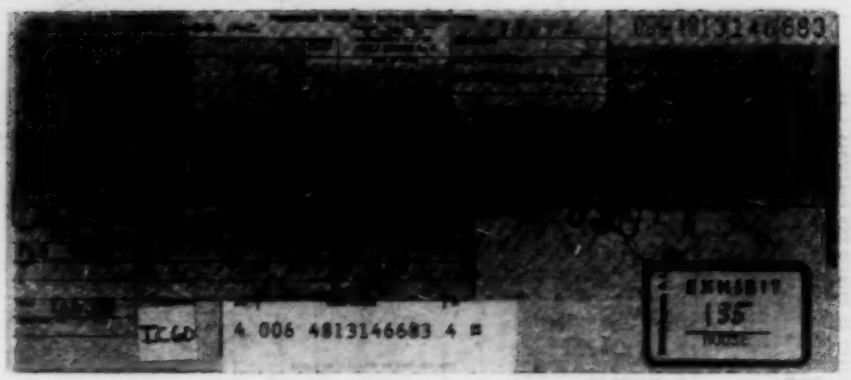


EXHIBIT 133

IG 54


4 006 4813146683 4 M
EXHIBIT
135

PASSENGER HISTORY RECORD

DEPT: 818 STATION: ATL

DATE 12 NOV 81

[redacted]

5:21 PM

DATE 23JUL DATE 23 OCT 1981 QUEU CODE PD SIGNATURE PP CITY ONE

WAS ORIGINATED BY AGENT-SET

NAME REQUESTED: HASTINGS NAME FOUND: 01 HASTINGS/ANN

PHONE: SHUTTO

TICKETING: TA/TL30

FACTS SSR TYPE A

REMARKS SEAT ON WATCH

111381

ITINERARY: CARRIER FLT # CLASS FLT DATE ORG DST STATUS NUM DPT TIME ARR TIME

DL 337 Y 30 OCT 1981 ATL FLL HK 05 6:55 PM 8:30 PM

NO HISTORY THIS PNR

EXHIBIT 134 HOUSE

United States Senate

EVIDENTIARY HEARING

HOUSE MANAGERS' EXHIBIT 134

IC 61

542

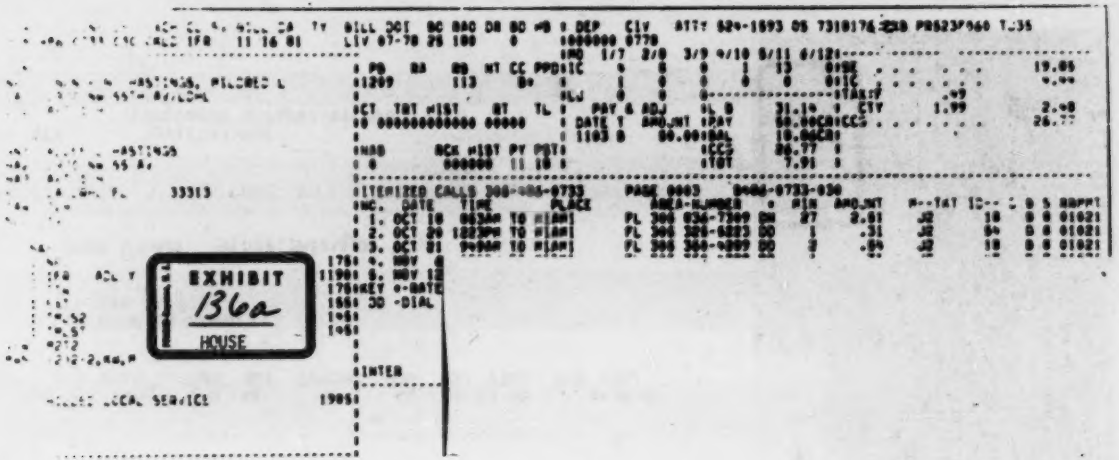
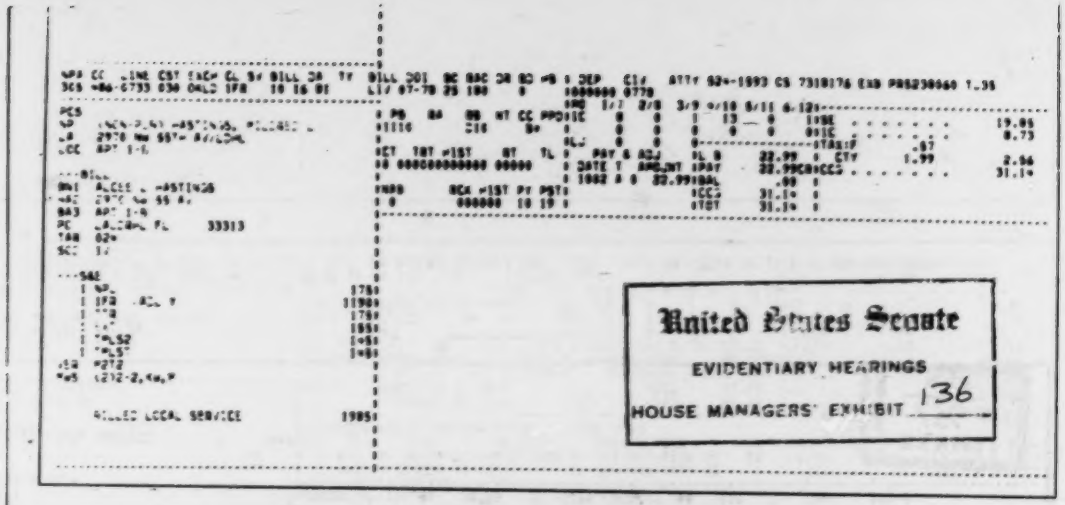


EXHIBIT
136a
HOUSE



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 136

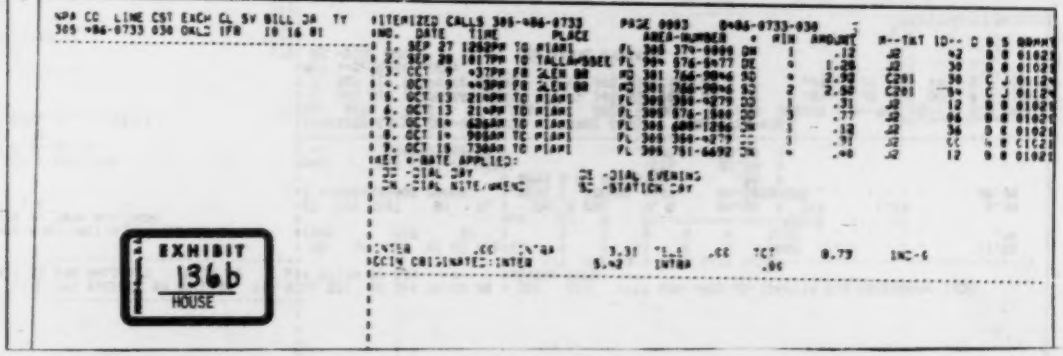
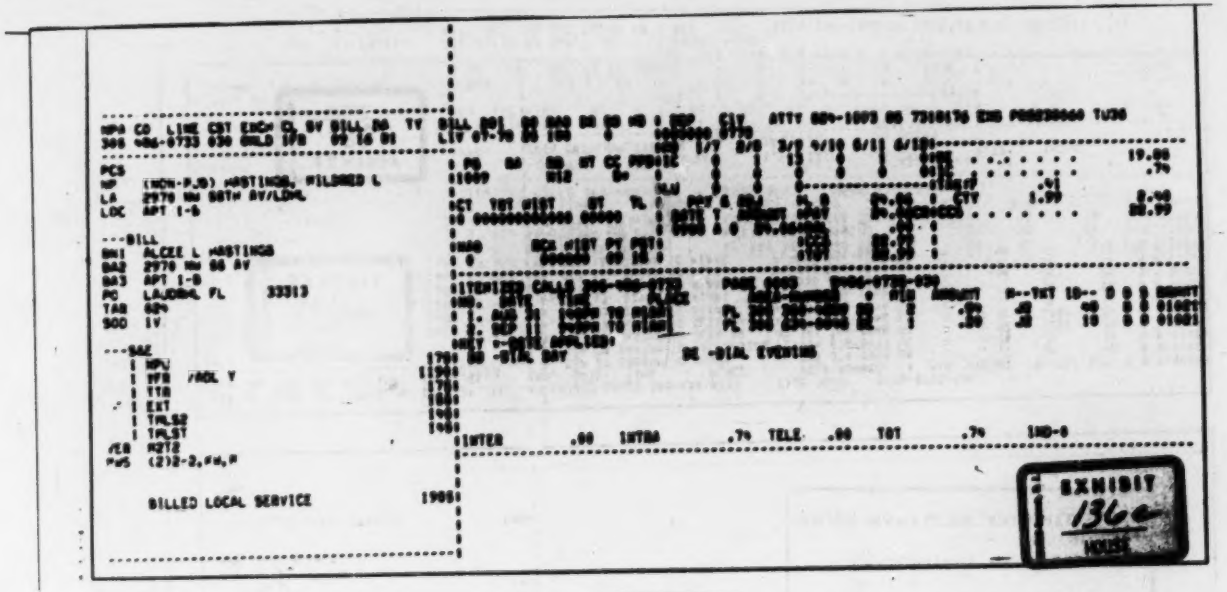
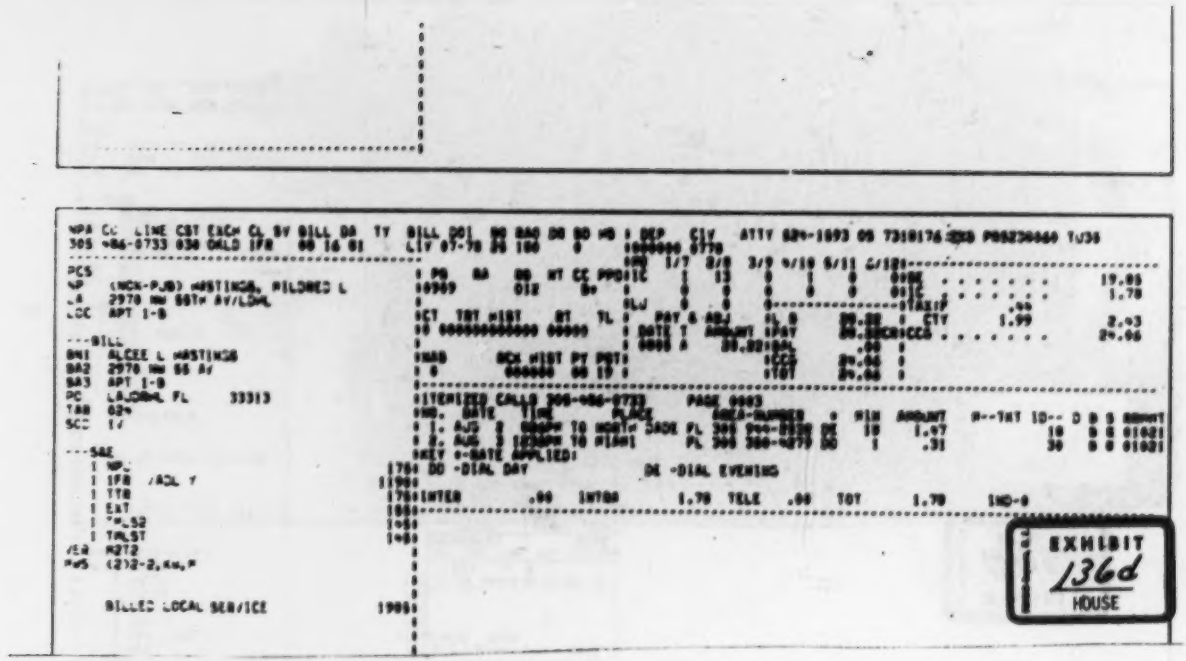


EXHIBIT 136b HOUSE


PCS
NP (NON-P.U) HASTINGS, WILDRED L
LA 2970 NW 88TH AV/LDHL
LOC APT 1-B
---BILL
BN1 ALCEE L HASTINGS
BA2 2970 NW 88 AV
BA3 APT 1-B
PO LAUDDHL FL 33313
TAR 60M
900 IV
---SAC
MPU
VFR /ADL Y
TTR
EXT
TMLSD
TMLST
/ER M2T2
P#S (2)3-2,F#,P
BILLED LOCAL SERVICE 1965
-DIAL DAY
DE -DIAL EVENING
INTER .00 INTRA .7¢ TELE .00 TOT .7¢ IND-0
EXHIBIT
136-a
HOUSE



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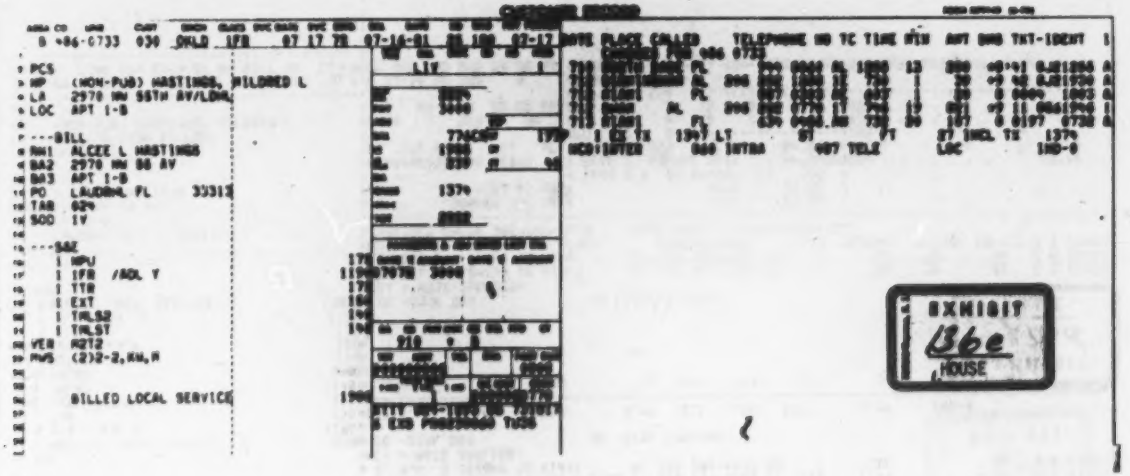
136d
HOUSE



CUSTOMER RECORD

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 B 486-6733  030  SHLD  1FB    07 17 78  07-16-01  05 100  02-17

 PCS
 NP   (NON-PUB) HASTINGS, MILDRED L
 LN   2970 NW 55TH AV/LDML
 LOC  APT 1-B

 ---BILL
 NM1  ALCEE L HASTINGS
 BA2  2970 NW 55 AV
 BA3  APT 1-B
 PO   LAUDHL FL      33313
 TAB  029
 SOO  1Y

 ---SAZ
      1 MPU
      1 1FB  /BDL Y
      1 TTB
      1 EXT
      1 TRLS2
      1 TRLST
 VER  M2T2
 PWS  (2)2-2,KH,R

      BILLED LOCAL SERVICE

                  LIV                1
                  7340                1979
                  1988
                  239
                  1374
                  0000
                  0000
                  0000
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EXHIBIT
136f
HOUSE

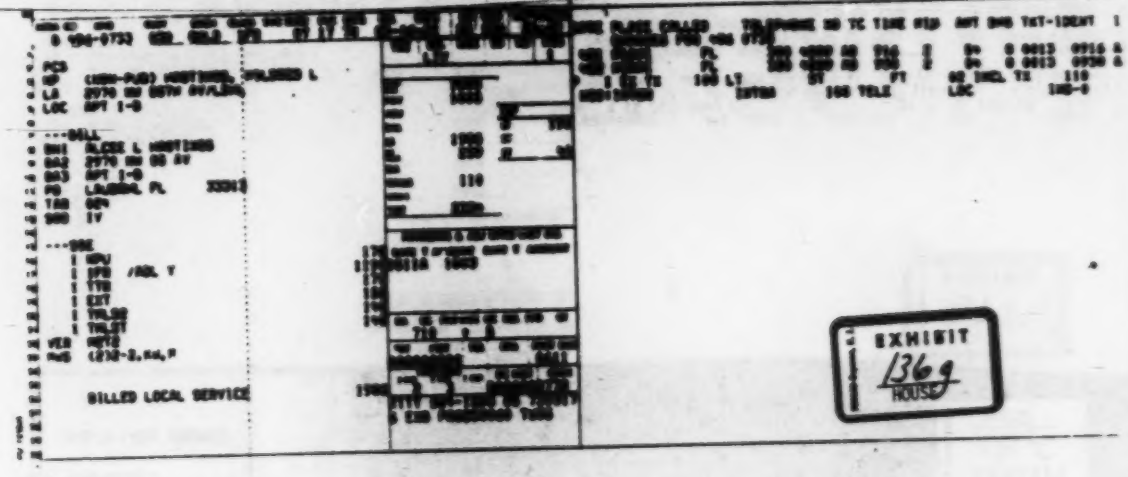
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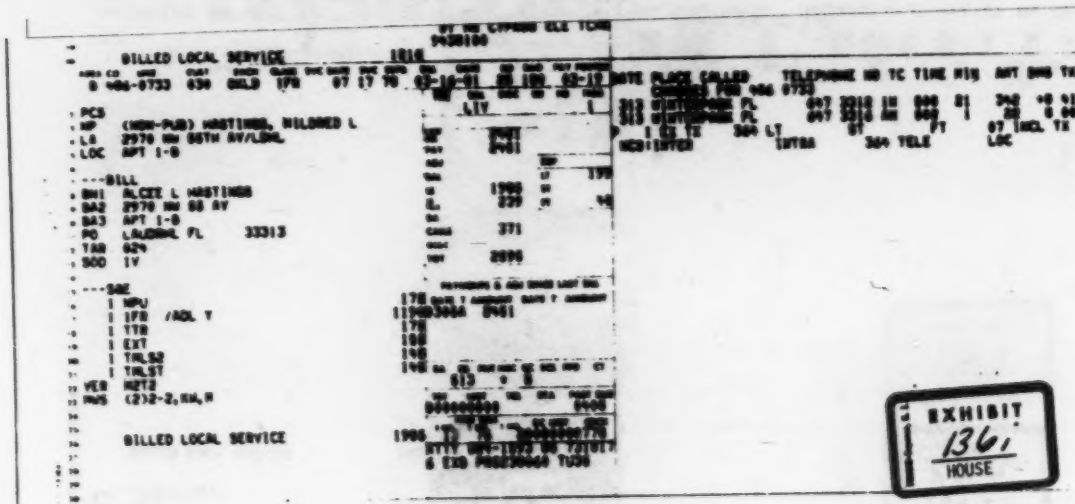
EXHIBIT
1369
HOUSE

EXHIBIT
V36h
HOUSE



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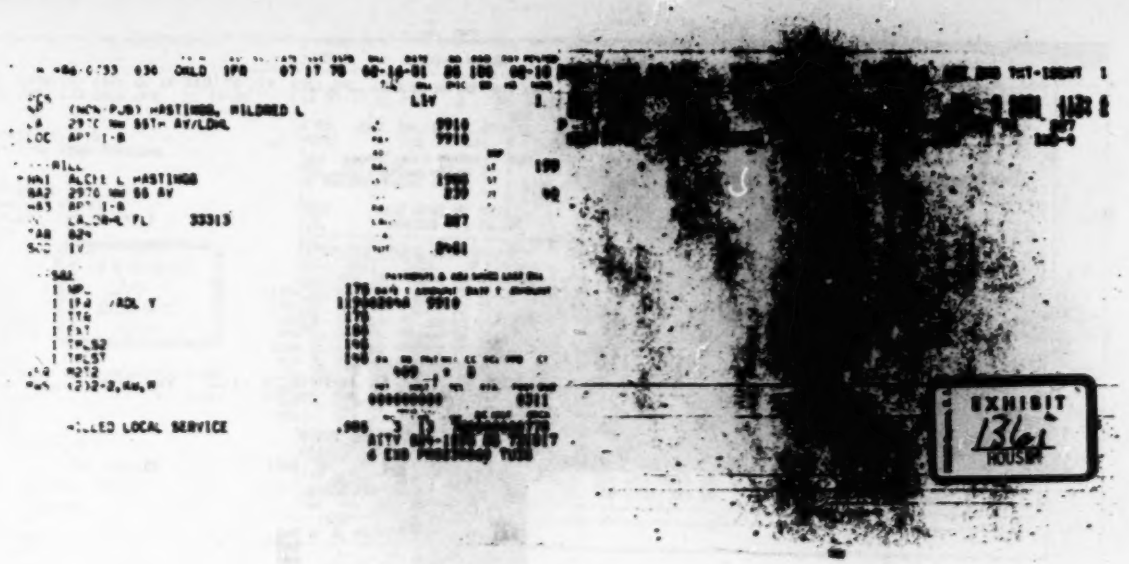
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136
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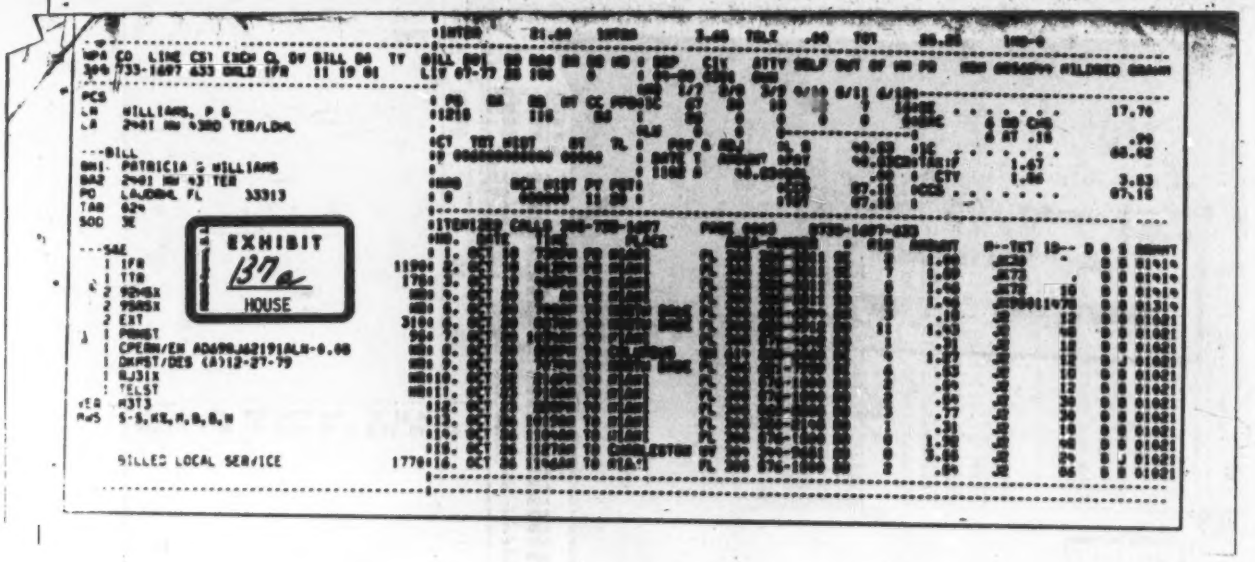
FL 33313
LOCAL SERVICE
EXHIBIT
136K
HOUSE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137a
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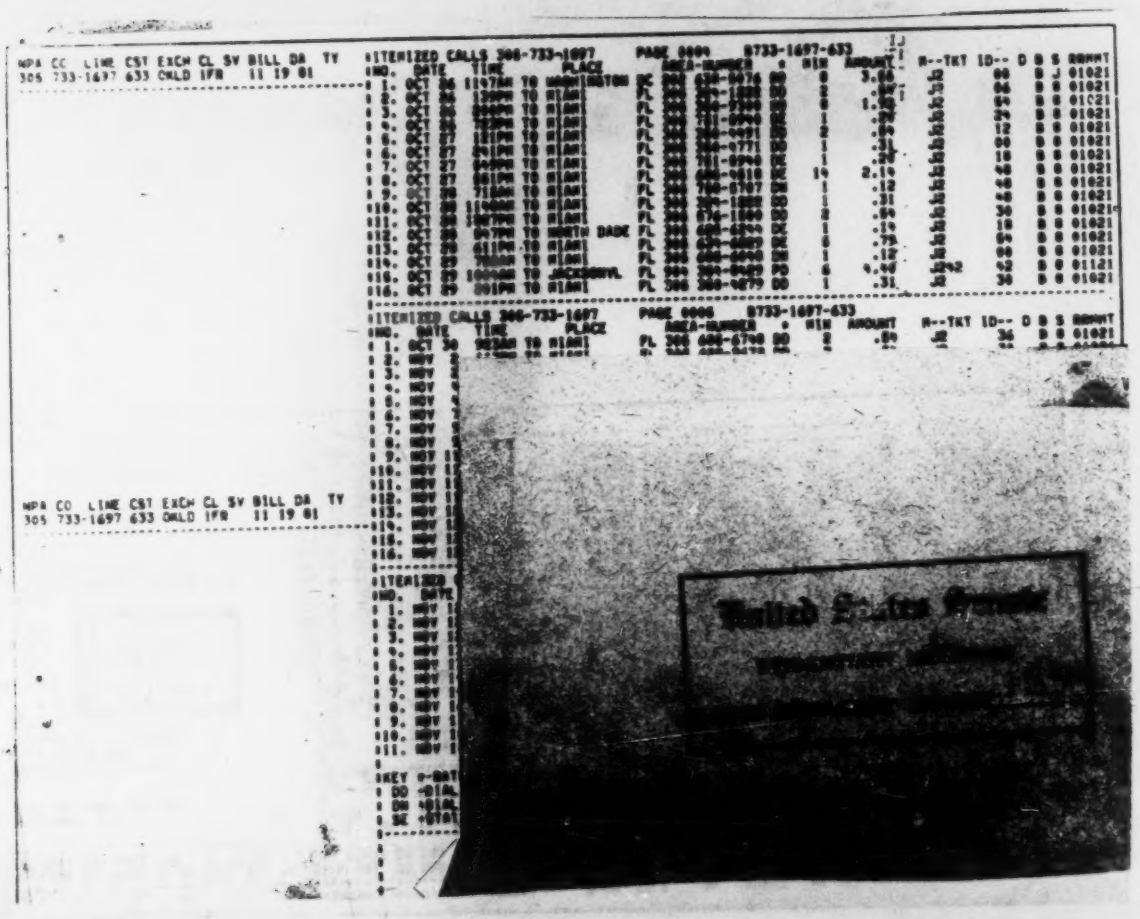
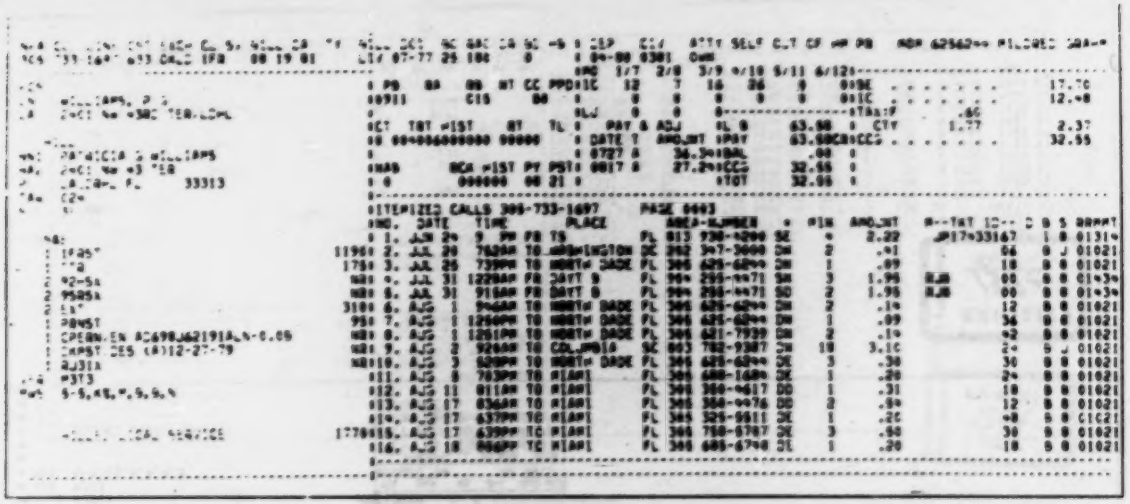


EXHIBIT
1376
HOUSE

EXHIBIT
187e
HOUSE



ITEMIZED CALLS 305-733-1697 PAGE 0003

NO.	DATE	TIME	PLACE	AREA-NUMBER	◊	MIN	AMOUNT	R--TAT ID-- D	S	RRPPT
1.	JUN 29	9 PM	FB TS	FL 813 930-4200	SE	◊	2.22	JP17◊33167	1	0 01314
2.	JUL 29	7628A	TO ◊◊◊◊◊LNGTON	DC 202 347-3000	DN	2	.41	06	0	J 01021
3.	JUL 29	7399M	TO NORTH◊ DADE	FL 305 625-62◊◊	DN	1	.09	18	0	0 01021
◊.	JUL 31	1228AM	FB DAYT O	FL 904 258-◊471	SN	3	1.95	RJR	00	0 0 01◊3◊
5.	JUL 31	918AM	FB DAYT O	FL 904 258-◊471	SD	2	1.95	RJR	00	0 0 01◊3◊
6.	AUG 1	946AM	TO NORTH◊ DADE	FL 305 625-62◊◊	DN	2	.1◊	12	0	0 01021
7.	AUG 1	1250PM	TO NORTH◊ DADE	FL 305 625-62◊◊	DN	1	.09	36	0	0 01021
8.	AUG 1	1251PM	TO NORTH◊ DADE	FL 305 621-7939	DN	2	.1◊	◊2	0	0 01021
9.	AUG 2	926AM	TO COLUMBIA	SC 803 782-9387	SN	10	3.1◊	2◊	0	J 01021
10.	AUG 3	609PM	TO NORTH◊ DADE	FL 305 625-62◊◊	DE	3	.30	30	0	0 01021
11.	AUG 8	703PM	TO MIAMI	FL 305 688-1680	DE	1	.20	2◊	0	0 01021
12.	AUG 11	811AM	TO MIAMI	FL 305 358-◊617	DD	1	.31	18	0	0 01021
13.	AUG 17	836AM	TO MIAMI	FL 305 358-◊◊76	DD	2	.6◊	12	0	0 01021
1◊.	AUG 17	637PM	TO MIAMI	FL 305 325-5611	DE	1	.2◊	◊8	0	0 C1021
15.	AUG 17	639PM	TO MIAMI	FL 305 758-6787	DE	3	.60	30	0	0 01021
16.	AUG 18	908PM	TO MIAMI	FL 305 688-6798	DE	1	.20	18	0	0 01021

ITEMIZED CALLS 305-733-1697 PAGE 0004

NO.	DATE	TIME	PLACE	AREA-NUMBER	◊	MIN	AMOUNT	R--TAT ID-- D	S	RRPPT
1.	AUG 18	907PM	TO NORTH◊ DADE	FL 30◊ 621-0◊◊1	DE	1	.1◊	18	0	0 01021

KEY ◊-RATE APPLIED:

DD -DIAL DAY		DE -DIAL EVENING	
DN -DIAL NITE/◊WEKC		SD -STATION DAY	
SE -STATION EVENING		SN -STA NITE/◊WEKC	

INTER 3.61 INTRA 8.97 TELE .00 TOT 12.◊8 INC-◊

EXHIBIT 137d HOUSE

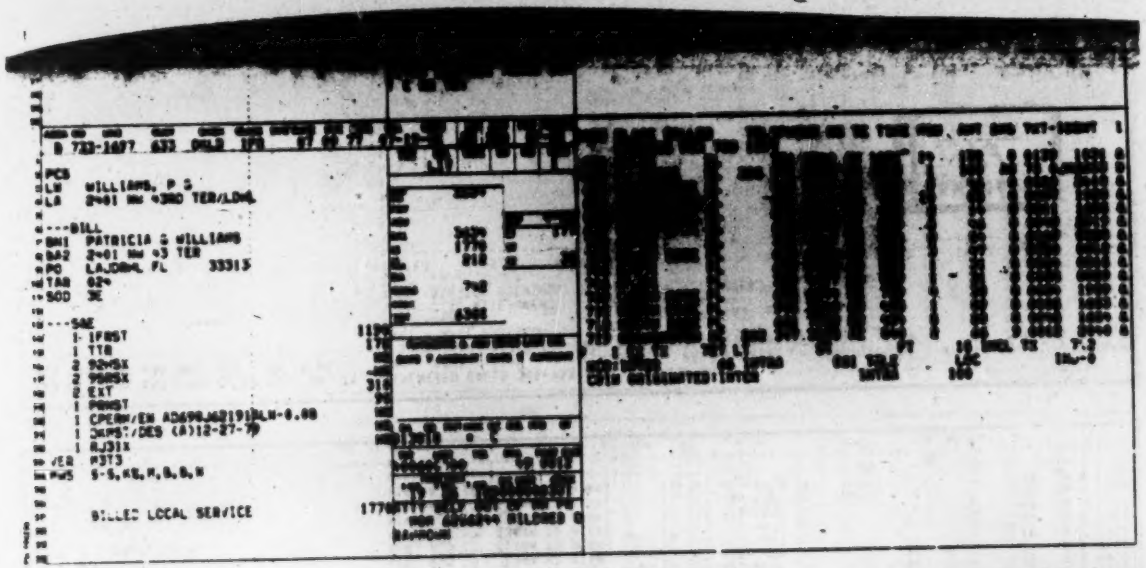


EXHIBIT
137c
HOUSE

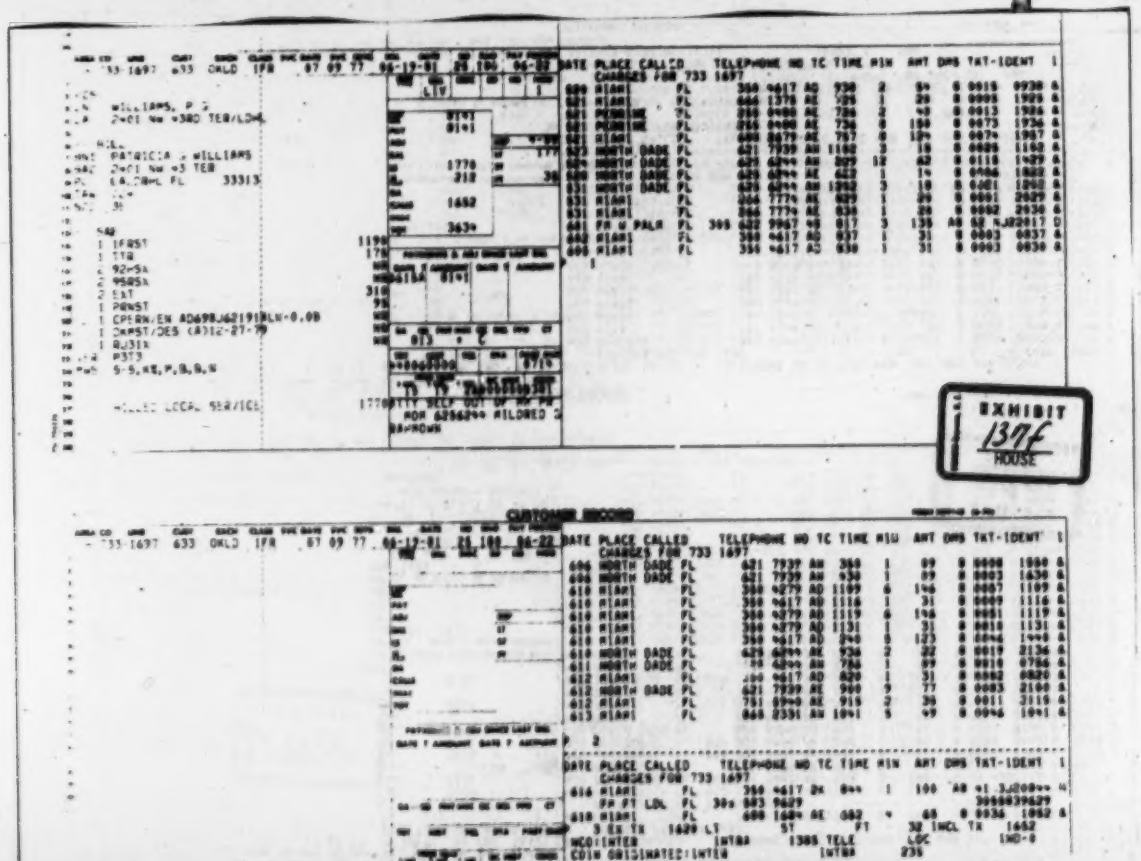


EXHIBIT 137F HOUSE

CUSTOMER RECORD

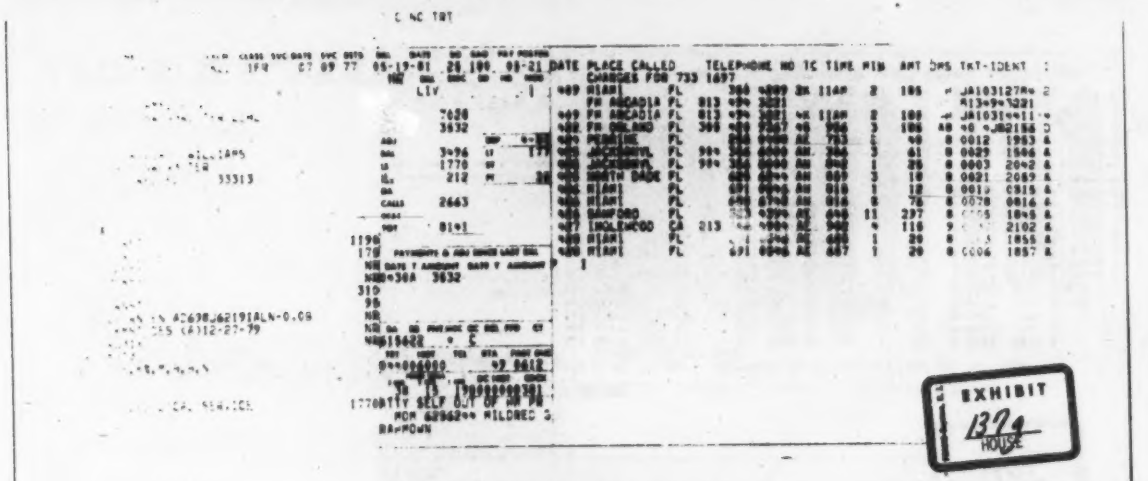


EXHIBIT
1374
HOUSE

CUSTOMER RECORD

PAGE 001 O C & C

TELCO ORDER FLORIDA REFUND OF MAR 31 (REFUND OF LOCAL EXCHANGE TELEPHONE SERVICE PER ORDER OF FLORIDA PUBLIC SERVICE COMMISSION

TOTAL EXCLUDING TAX +0+CR

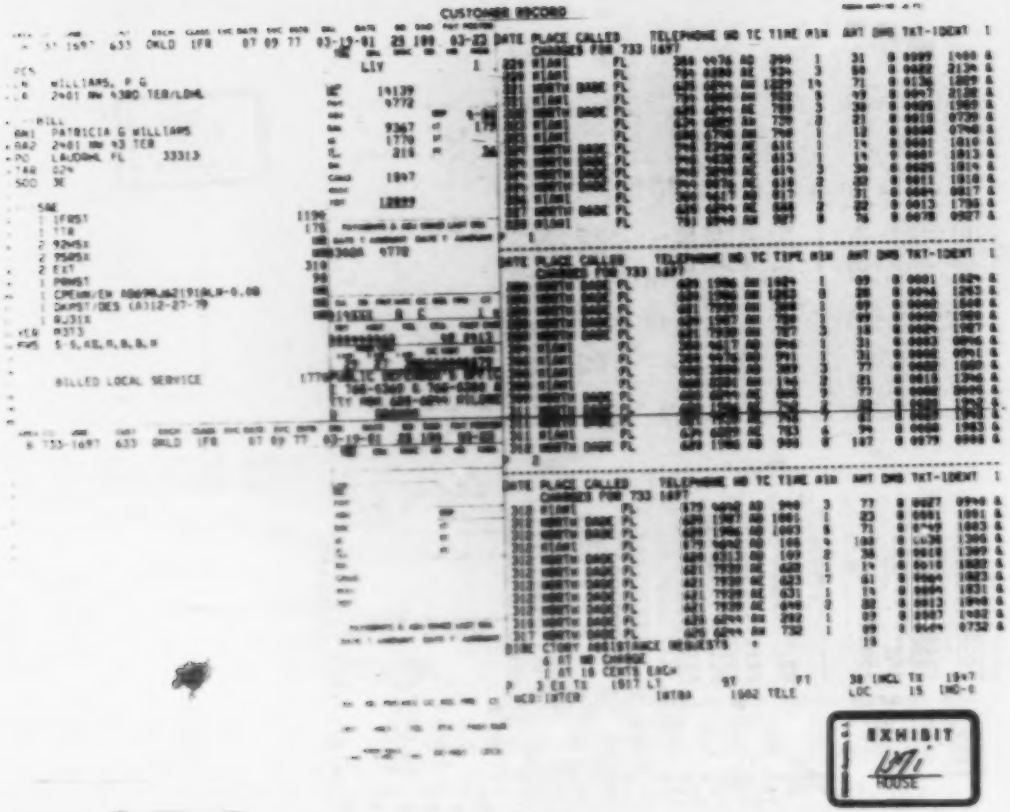
LOC +.00CR ST .00 FED .00CR TOTAL INCLUDING TAX +0CR +62CR

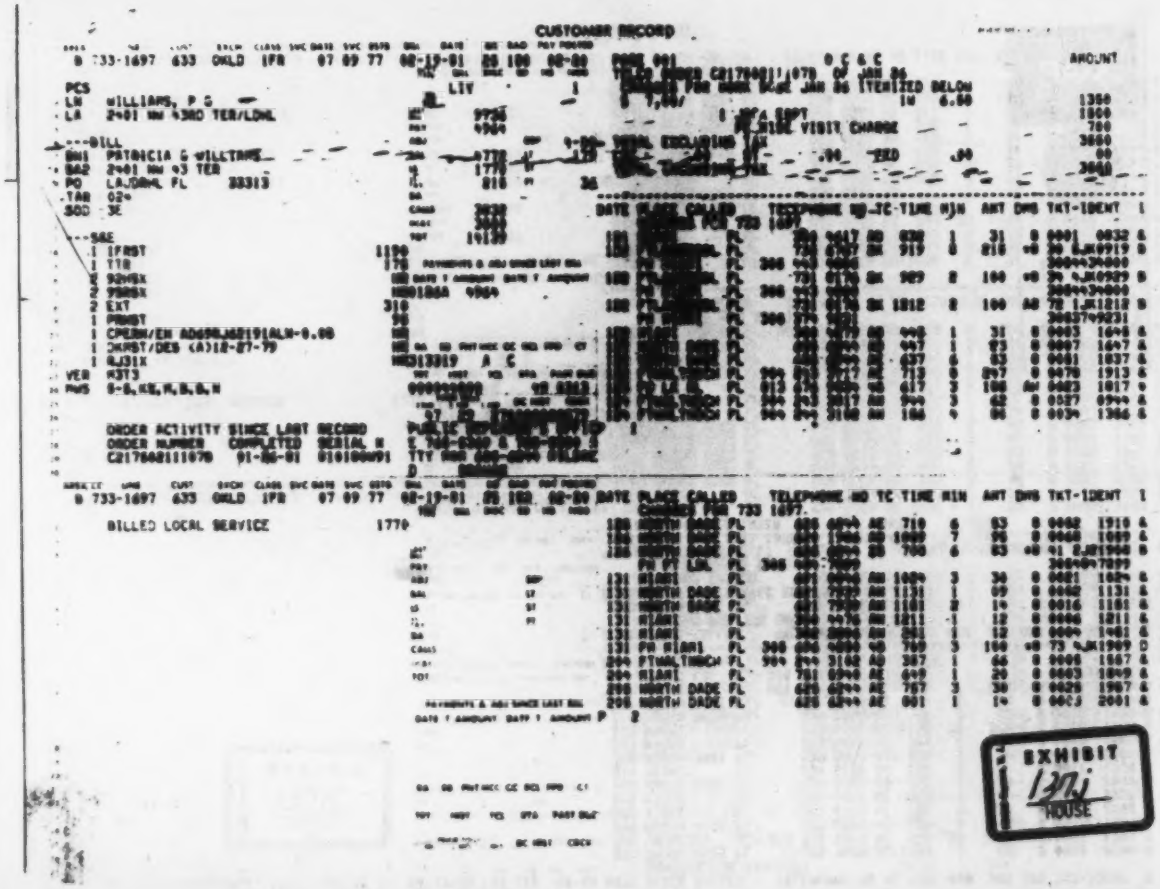
DATE	PLACE CALLED	CHARGES FOR 733 1697	TELEPHONE NO	TC	TIME	PIN	AMT	DMS	TKT-IDENT
321	MIAMI	FL	836 5206	AN	238	1	12	0	0002 1435 A
321	MIAMI	FL	688 6748	AN	302	1	12	0	0010 1502 A
321	MIAMI	FL	685 6748	AN	319	1	12	0	0004 1510 A
321	MIAMI	FL	836 5206	AN	347	1	12	0	0004 1607 A
323	NORTH DADE	FL	625 62++	AD	900	1	23	0	0001 0900 A
323	MIAMI	FL	350 +617	AD	909	1	31	0	0009 0920 A
323	MIAMI	FL	350 +879	AD	901	3	77	0	0004 0921 A
323	MIAMI	FL	+05 3618	AD	1000	1	31	0	0003 1000 A
326	NORTH DADE	FL	621 2300	AE	807	8	69	0	0000 2027 A
326	MIAMI	FL	688 6679	AE	842	14	214	0	0132 2042 A
326	NORTH DADE	FL	621 7939	AE	904	1	14	0	0004 2104 A
329	NORTH DADE	FL	688 68++	AE	903	9	38	0	0033 2000 A
330	NORTH DADE	FL	625 62++	AN	729	1	09	0	0010 0734 A
+04	MIAMI	FL	79+ 8200	AN	858	2	21	0	0012 0855 A

DATE	PLACE CALLED	CHARGES FOR 733 1697	TELEPHONE NO	TC	TIME	PIN	AMT	DMS	TKT-IDENT
+04	MIAMI	FL	32+ 7878	AN	937	1	12	0	0009 0937 A
+04	MIAMI	FL	+43 +800	AN	938	1	12	0	0001 0938 A
+04	NORTH DADE	FL	621 2300	AN	+04	1	09	0	000+ 104+ A
+05	NORTH DADE	FL	625 62++	AN	1246	3	10	0	0020 1246 A
+06	MIAMI	FL	350 +617	AD	833	1	31	0	0002 0833 A
+06	MIAMI	FL	688 6748	AE	852	9	139	0	0008 2002 A
+07	FH ARCADIA	FL 813	+9+ +80+	AN	859	9	3+1	+	J80991+29 +
+07	NORTH DADE	FL	625 62++	AN	848	1	09	0	0007 0848 A
+07	NORTH DADE	FL	621 7939	AE	729	1	1+	0	0007 1939 A
+08	ARCADIA	FL 813	+9+ +80+	IT	721	7	389	+0	+2 7381921 A
+08	MIAMI	FL	879 +642	AD	942	5	123	0	00+9 0942 A
+08	NORTH DADE	FL	630 1986	AD	1013	7	95	0	0006+ 1013 A
+09	NORTH DADE	FL	625 62++	AE	929	3	+7	0	0002+ 0929 A
+10	NORTH DADE	FL	625 62++	AE	736	2	22	0	0017 1938 A

DATE	PLACE CALLED	CHARGES FOR 733 1697	TELEPHONE NO	TC	TIME	PIN	AMT	DMS	TKT-IDENT
+16	NORTH DADE	FL	620 9+36	AE	800	1	1+	0	0006 2006 A
+17	NORTH DADE	FL	621 7939	AN	847	2	1+	0	0016 0847 A
+17	MIAMI	FL	350 +617	AD	841	1	31	0	0002 08+1 A
+18	NORTH DADE	FL	62+ 5+36	AN	+55	4	1+	0	0017 1655 A
+20	NORTH DADE	FL	625 62++	AN	716	9	18	0	0020 0716 A

EXHIBIT 139h HOUSE

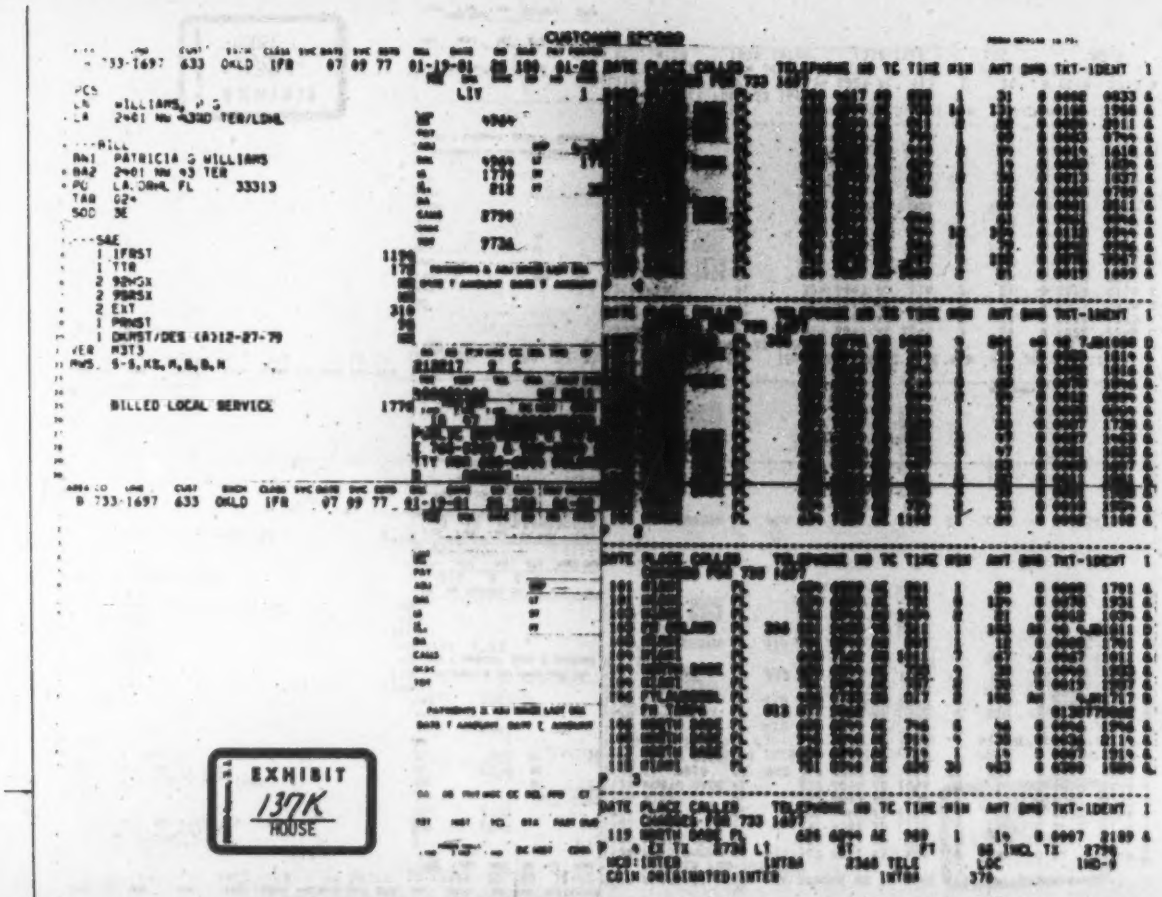

CUSTOMER RECORD
EXHIBIT
HOUSE



CUSTOMER RECORD

EXHIBIT 137j HOUSE

CUSTOMER RECORD
DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT DHS TXT-IDENT
DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT DHS TXT-IDENT
2
1


CUSTOMER RECORD
EXHIBIT
137K
HOUSE

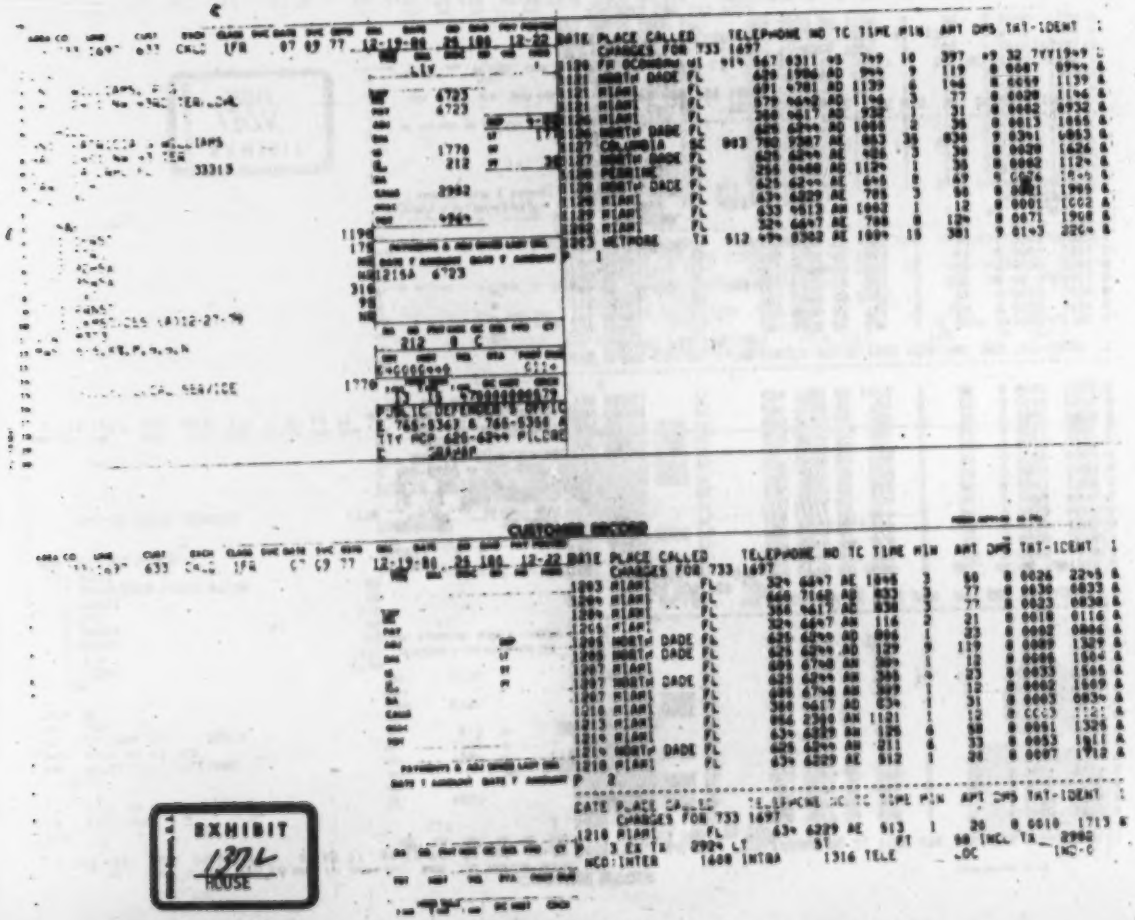


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EXHIBIT
137L
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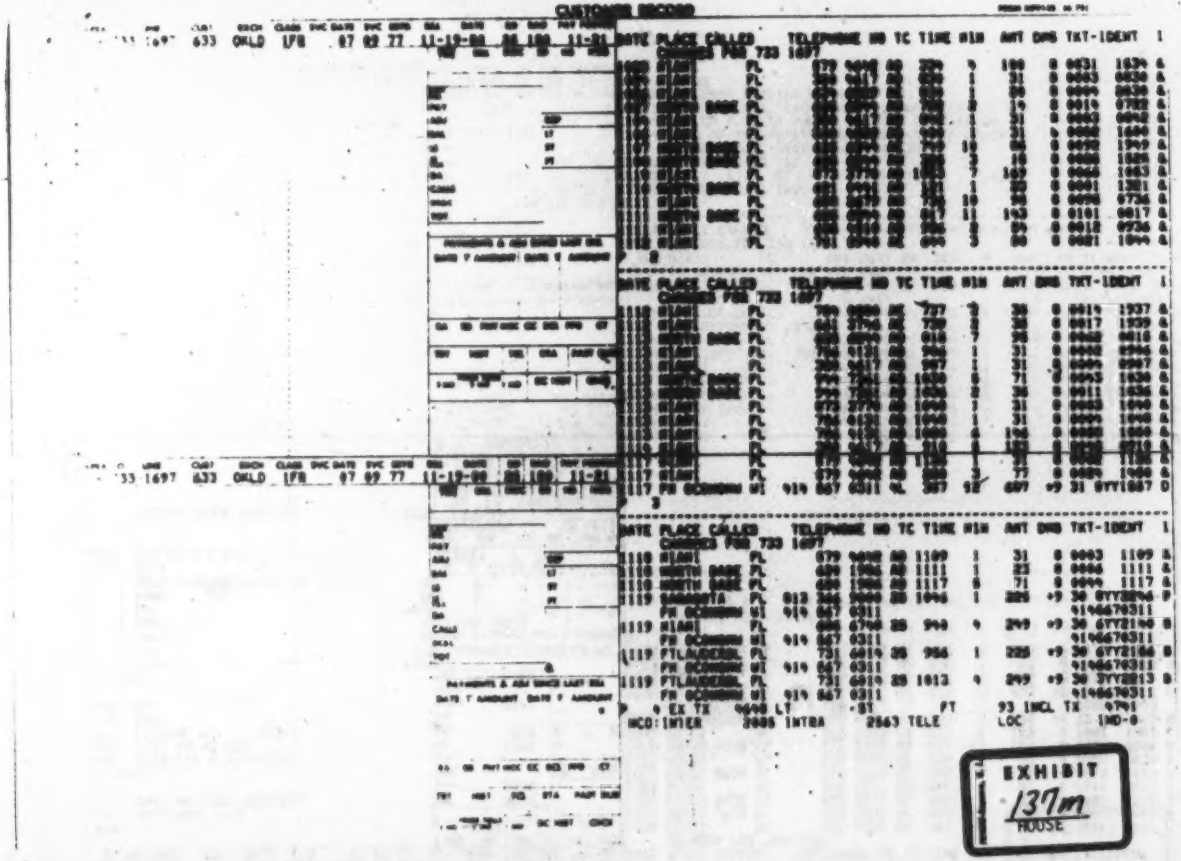
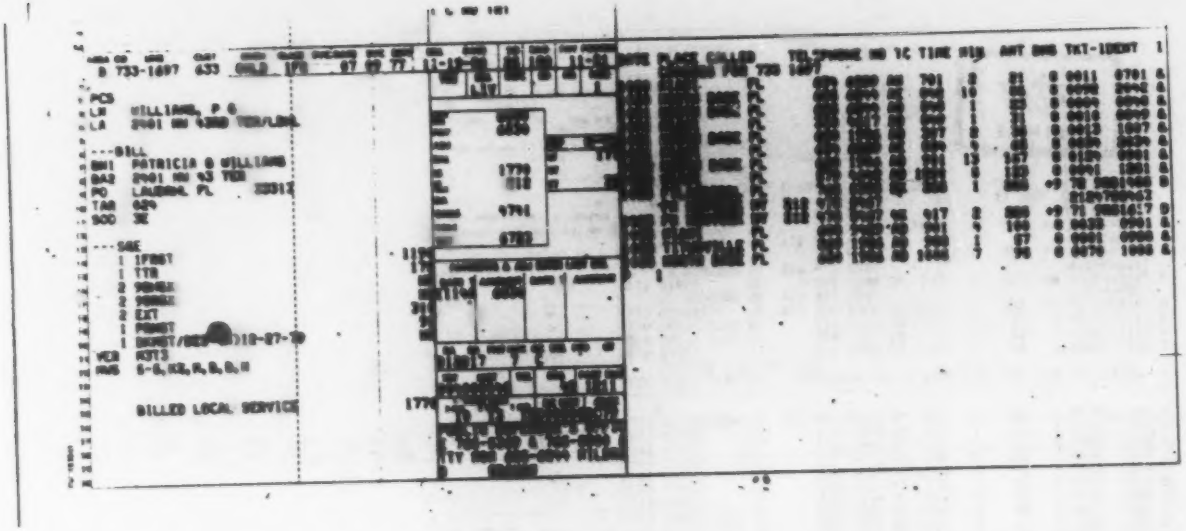
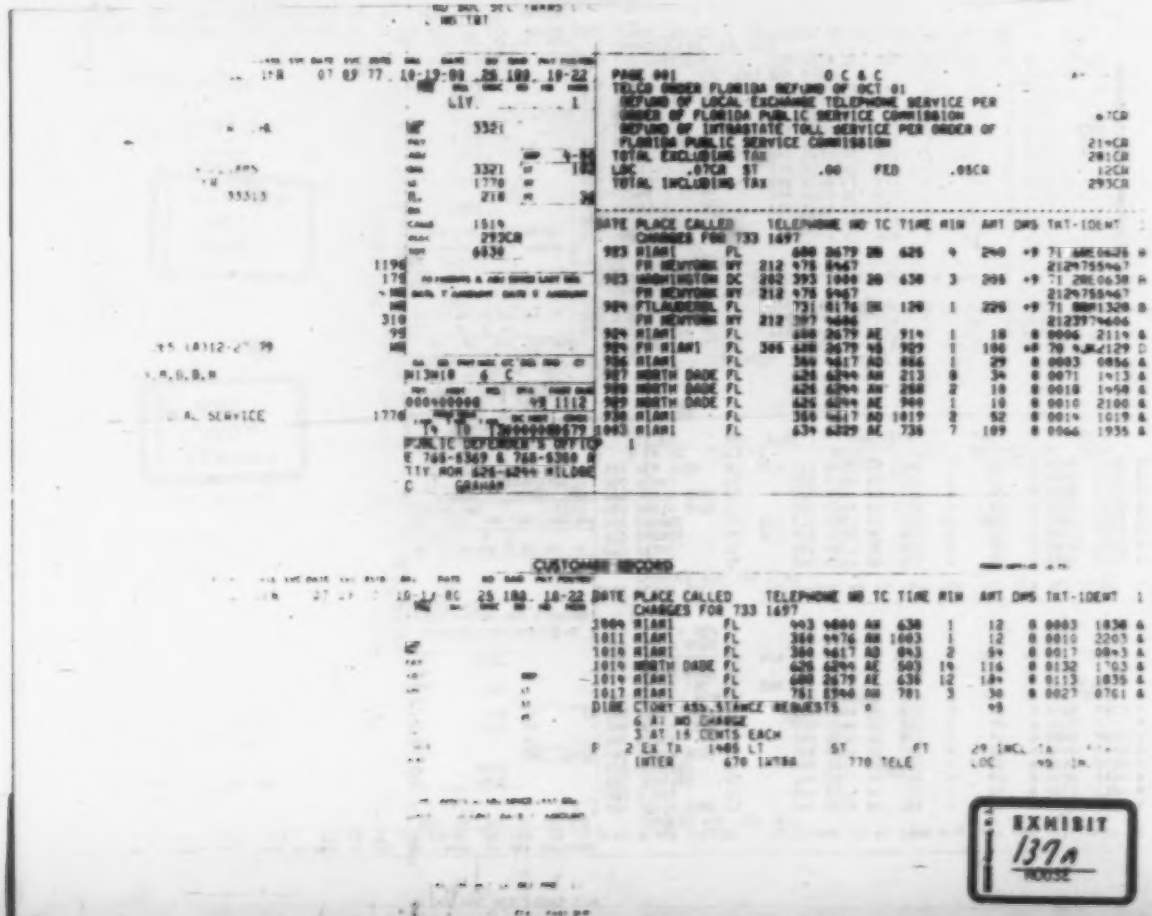


CUSTOMER RECORD

EXHIBIT
137m
HOUSE





PAGE 001 O C & C

TELCO ORDER FLORIDA REFUND OF OCT 01
REFUND OF LOCAL EXCHANGE TELEPHONE SERVICE PER
ORDER OF FLORIDA PUBLIC SERVICE COMMISSION .07CR
REFUND OF INTRASTATE TOLL SERVICE PER ORDER OF
FLORIDA PUBLIC SERVICE COMMISSION 21+CR
TOTAL EXCLUDING TAX 281CR
LOC .07CR ST .00 FED .08CR 12CR
TOTAL INCLUDING TAX 293CR

DATE	PLACE CALLED		TELEPHONE NO	TC	TIME	MIN	AMT	DMS	TKT-IDENT	
	CHARGES FOR 733 1697									
923	MIAMI	FL	680 2679	DN	625	9	240	+9	71	A
	FR NEWYORK	NY	212 975 8467						2129758467	
923	WASHINGTON	DC	202 393 1000	20	630	3	306	+9	71	A
	FR NEWYORK	NY	212 975 8467						2129758467	
924	FTLAUDERDL	FL	731 8176	DK	120	1	225	+9	71	B
	FR NEWYORK	NY	212 397 4606						2123974606	
924	MIAMI	FL	680 2679	AE	914	1	18	0	0006	2114 A
924	FR MIAMI	FL	305 680 2679	AE	929	1	186	+9	70	A
926	MIAMI	FL	364 4617	AD	846	1	29	0	0003	0856 A
927	NORTH DADE	FL	626 6294	AH	213	0	34	0	0071	1913 A
928	NORTH DADE	FL	626 6294	AH	248	2	10	0	0010	1950 A
929	NORTH DADE	FL	626 6294	AE	940	1	10	0	0010	2100 A
930	MIAMI	FL	364 4617	AD	1019	2	52	0	0019	1019 A
1003	MIAMI	FL	634 6229	AE	736	7	109	0	0066	1935 A

CUSTOMER RECORD

DATE	PLACE CALLED		TELEPHONE NO	TC	TIME	MIN	AMT	DMS	TKT-IDENT	
	CHARGES FOR 733 1697									
1009	MIAMI	FL	903 9880	AH	638	1	12	0	0003	1838 A
1011	MIAMI	FL	360 9976	AH	1603	1	12	0	0010	2203 A
1016	MIAMI	FL	364 4617	AD	843	2	54	0	0017	0843 A
1019	NORTH DADE	FL	626 6294	AE	503	19	116	0	0132	1703 A
1019	MIAMI	FL	680 2679	AE	638	12	184	0	0113	1836 A
1017	MIAMI	FL	781 8960	AH	701	3	30	0	0027	0701 A

DIRECTORY ASSISTANCE REQUESTS 0 98
6 AT NO CHARGE
3 AT 15 CENTS EACH

P 2 EA TA 1406 LT ST PT 29 INCL TA
INTER 670 INTRA 770 TOLL LOC 99 IN

EXHIBIT
137A
ROOSE

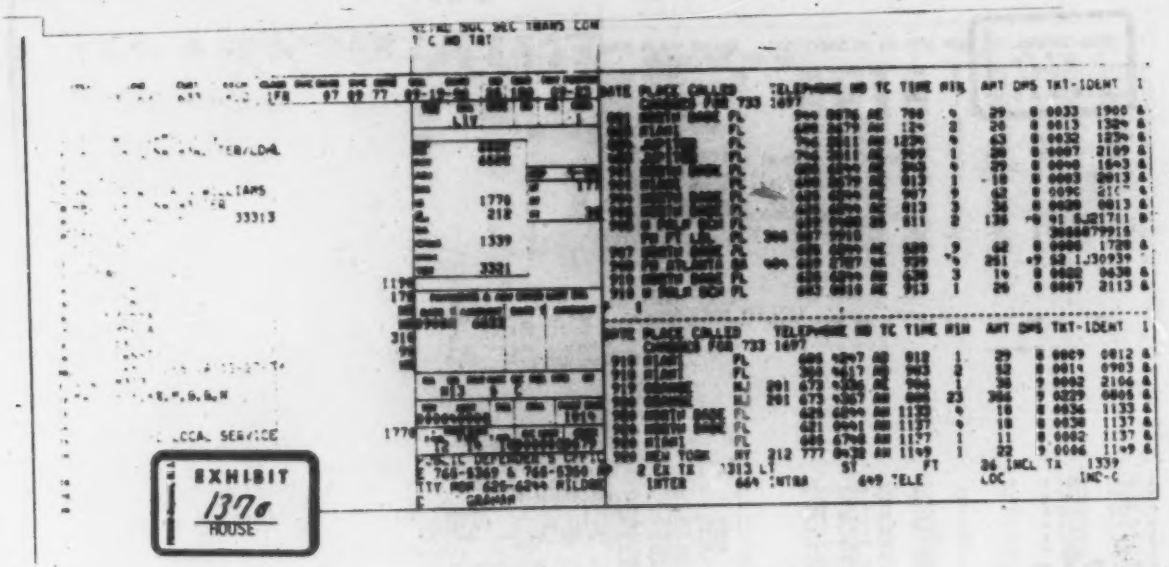
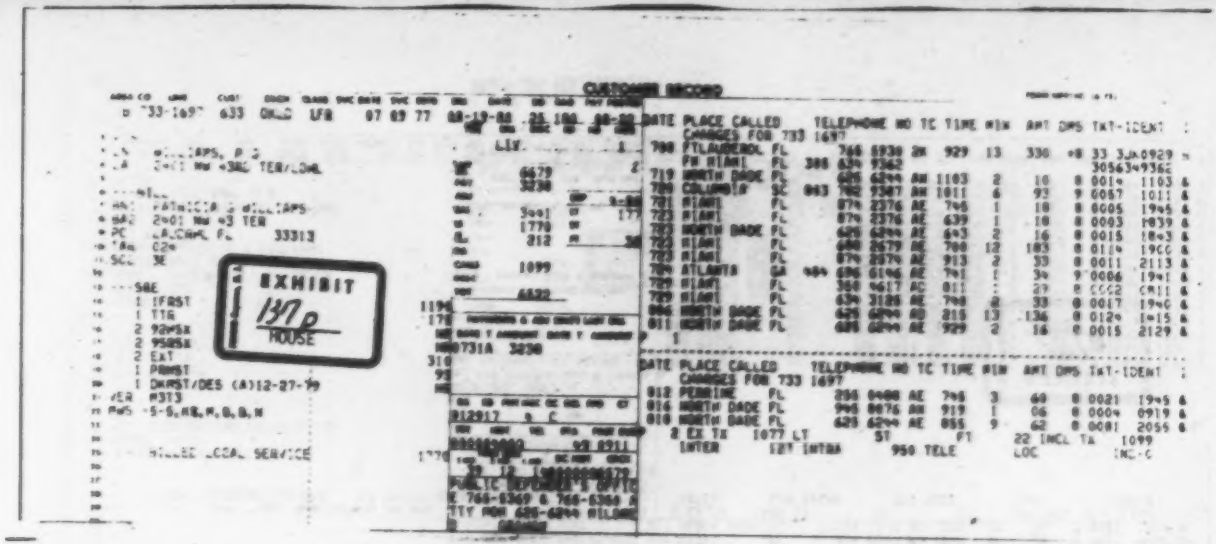


EXHIBIT
137a
HOUSE



CUSTOMER RECORD

733-1697 633 ORLD LFB 07 03 77 08-19-88 23 100 08-20

LIV 1

6679 2
3230
5401 177
1770
212 36
1099
6822

731A 3030

312917

DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT DPS TXT-IDENT

CHARGES FOR 733 1697

708	FTLAUDERDL	FL		766	6930	2M	929	13	330	+0 33 3JA0929
	FM MIAMI	FL	305	634	7362					3056347362
719	NORTH DADE	FL		625	6244	AN	1103	2	10	0 0010 1103 &
720	COLUMBIA	SC	803	782	7347	AN	1011	6	93	9 0067 1011 &
721	MIAMI	FL		874	2376	AE	746	1	18	8 0005 1946 &
723	MIAMI	FL		874	2376	AE	639	1	18	8 0003 1939 &
723	NORTH DADE	FL		625	6244	AE	643	2	16	8 0015 1843 &
723	MIAMI	FL		688	2679	AE	700	12	183	8 0114 1900 &
723	MIAMI	FL		874	2379	AE	913	2	33	8 0011 2113 &
724	ATLANTA	GA	404	696	6146	AE	741	1	34	9 0006 1941 &
729	MIAMI	FL		358	4617	AC	011	1	29	8 CCCC CM11 &
729	MIAMI	FL		634	3128	AE	748	2	33	8 0017 1940 &
806	NORTH DADE	FL		625	6244	AD	215	13	136	8 0120 1+15 &
811	NORTH DADE	FL		625	6244	AE	929	2	16	8 0015 2129 &

DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT DPS TXT-IDENT

CHARGES FOR 733 1697

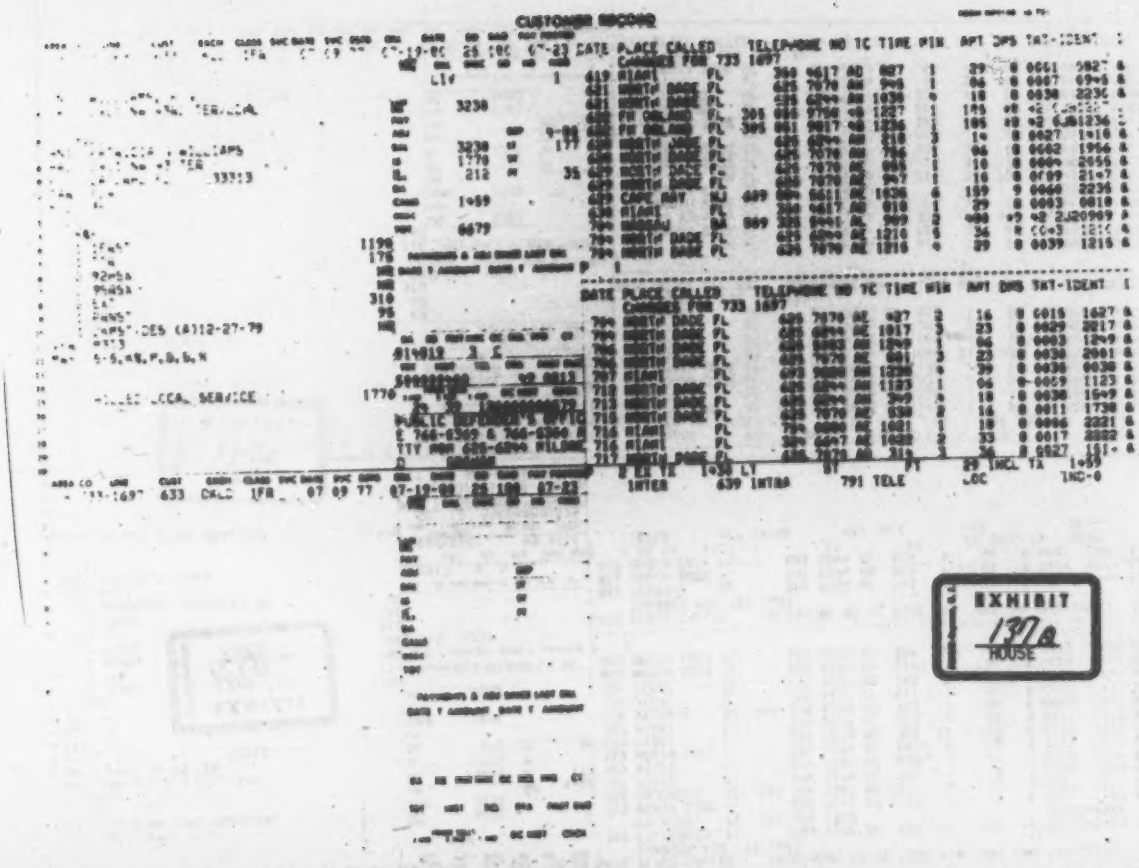
812	PERRINE	FL		255	0400	AE	748	3	69	8 0021 1945 &
814	NORTH DADE	FL		945	0076	AN	919	1	06	0 0004 0919 &
810	NORTH DADE	FL		625	6244	AE	855	9	62	8 0081 2056 &

2 EX TX 1077 LT 57 FT 22 INCL TX 1099

INTER 187 INTRA 950 TELE LOC INC-C

EXHIBIT 137p HOUSE

573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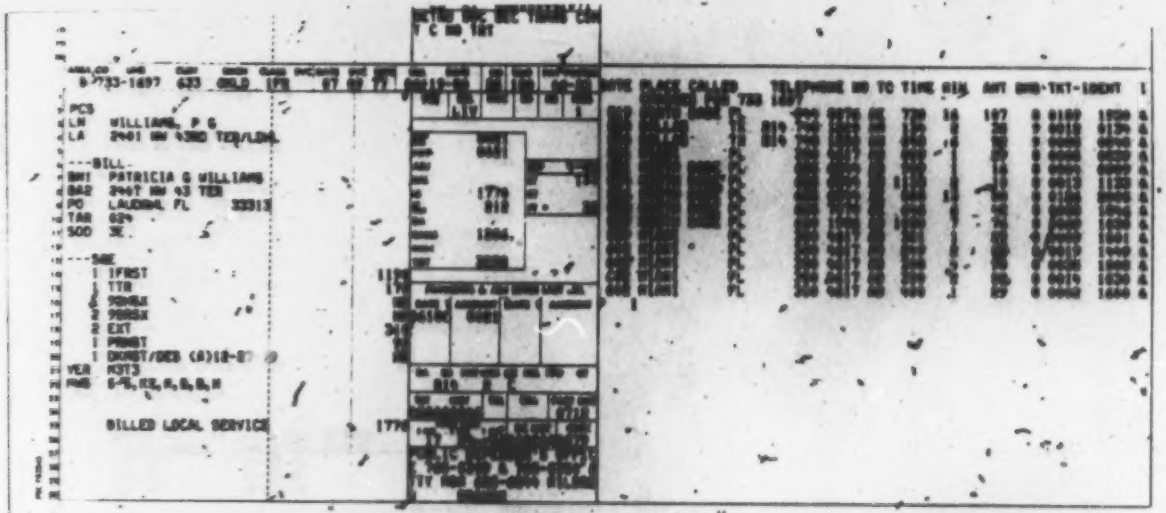
DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT DIS TAX-IDENT
CHARGES FOR 733 1697
DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT DIS TAX-IDENT
CHARGES FOR 733 1697
PUBLIC
TTY 800 696-6200 BILLING
DES (8)12-27-79
LOCAL SERVICE
633 CALC IFR
INTER
639 INTRA
791 TELE
INCL TX
INCL-0
EXHIBIT
137a
HOUSE

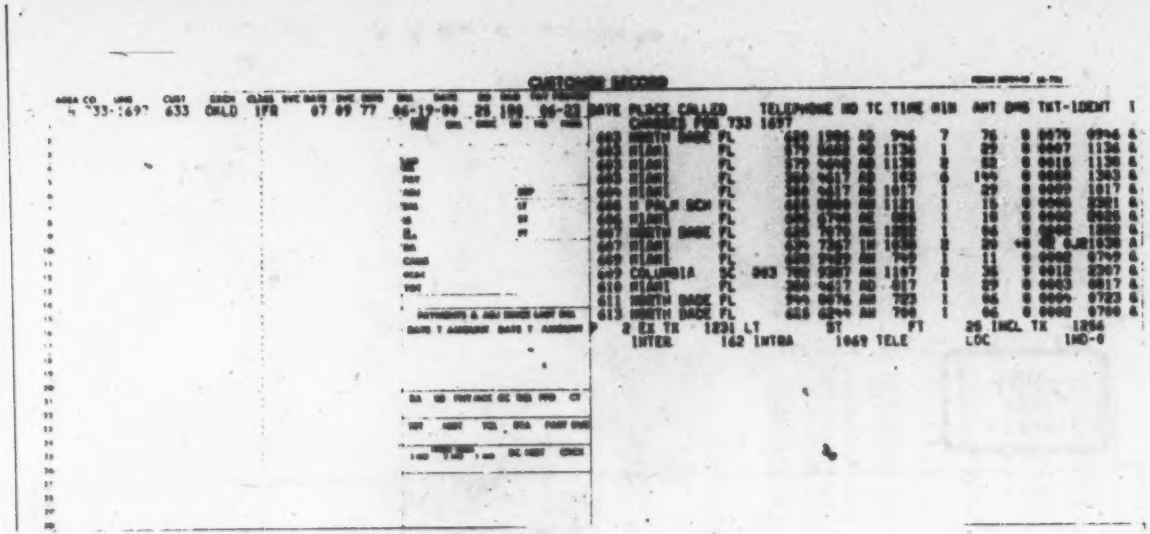


PCS
LN WILLIAMS, P G
LA 2401 NW 43RD TER/LDHL
---BILL
BNI PATRICIA G WILLIAMS
BAD 2401 NW 43 TER
PO LAUDHL FL 33313
TAR 629
SOD 3E
---SAE
1 TFRST
1 TTR
2 9DHLE
2 9DHSX
2 EXT
1 PRMRT
1 DKRST/DEB (A)18-0
VER POT3
PMS 0-0,EE,0,0,0,0,0
BILLED LOCAL SERVICE 1770

DATE PLACE CALLED TELEPHONE NO TO TIME MIN AMT DHD-TRT-LOCINT I

EXHIBIT
137c
HOUSE

575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CHARGES FOR 733 1697
2 EX TX 1231 LT ST FT 26 INCL TX 1256
INTER 162 INTRA 1069 TELE LOC IND-0

9 733-1697 633 BILD IPR

PCS
LN WILLIAMS, P G
LA 2401 NW 43RD TER/LDHL

---BILL
BN1 PATRICIA G WILLIAMS
BA2 2401 NW 43 TER
PO LAUDHL FL 33313
TAB 030
SOC XX

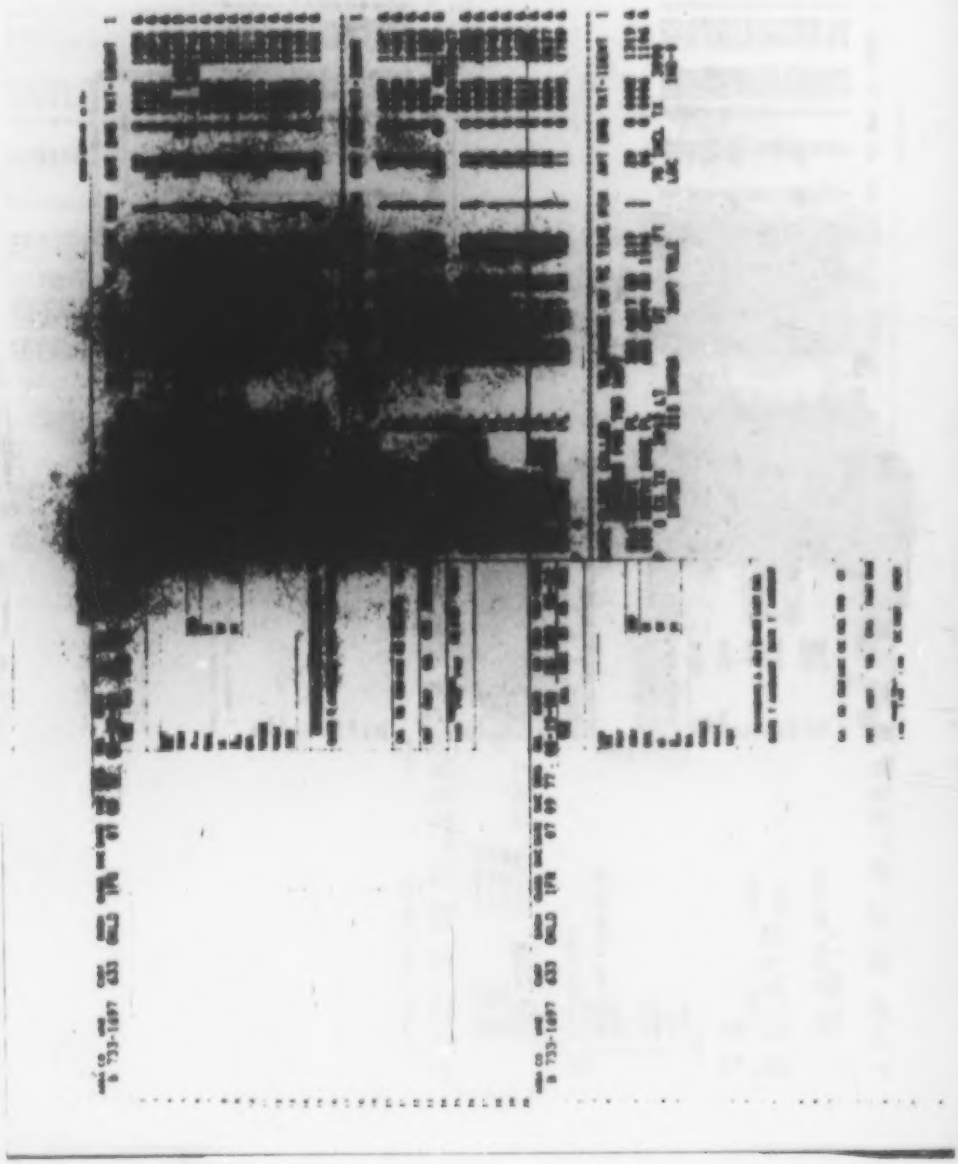
---SOE
1 IPRST
1 TTR
2 [illegible]
2 [illegible]
2 EXT
1 PRNST
1 CHRGT/DBS (A)118-27-39
VSR MST3
PAS [illegible]

ORDER ACTIVITY SINCE LAST RECORD
ORDER NUMBER CODE
DEP ACT
DEP ACT
DEP ACT

9 733-1697 633 BILD IPR

BILLED LOCAL SERVICE 1770

EXHIBIT
130s
HOUSE



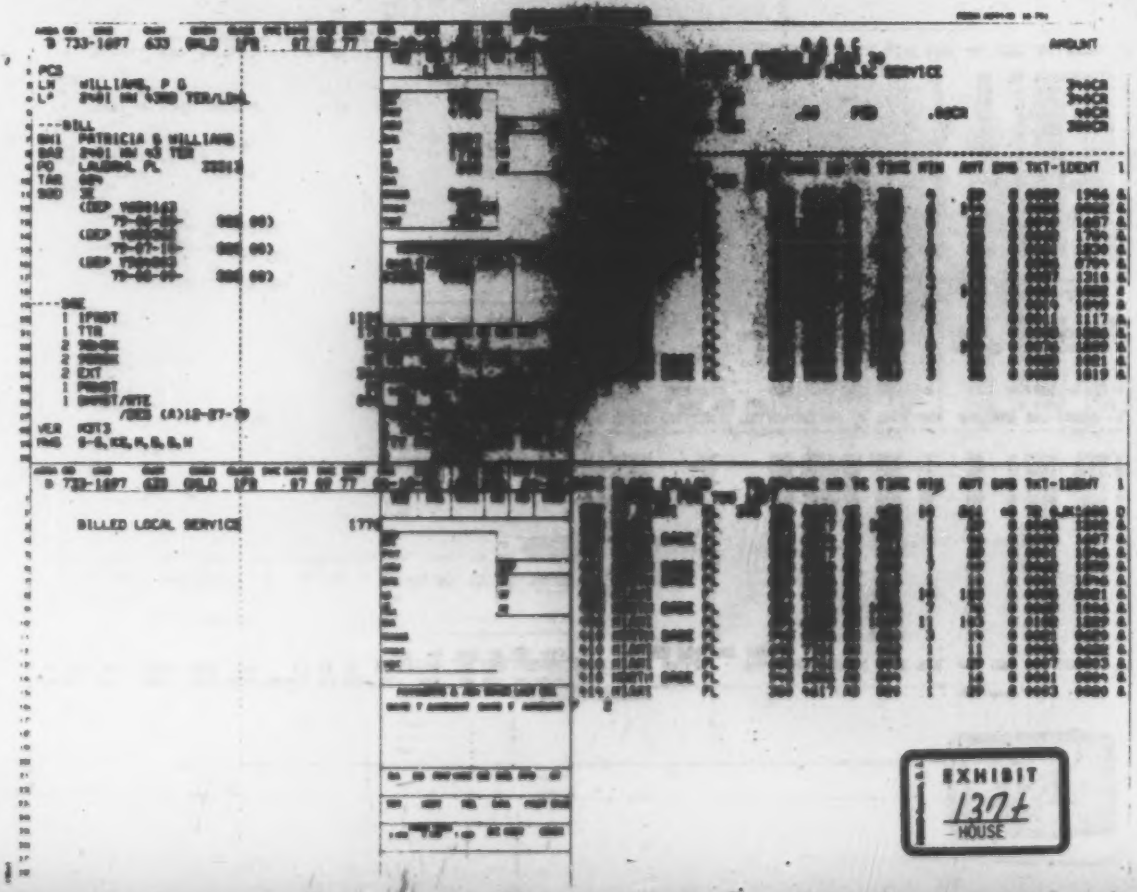
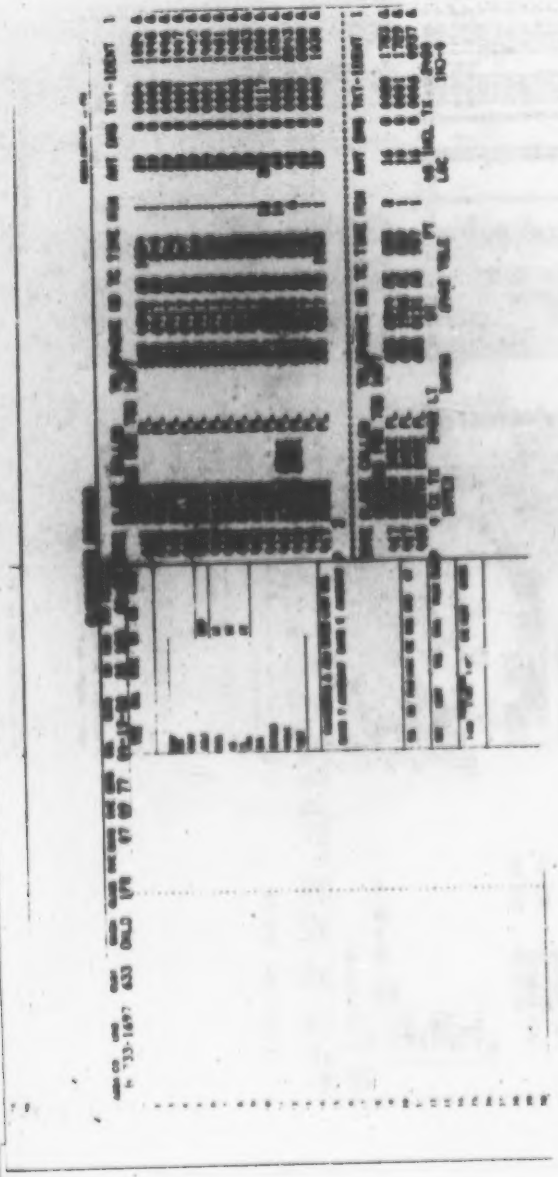
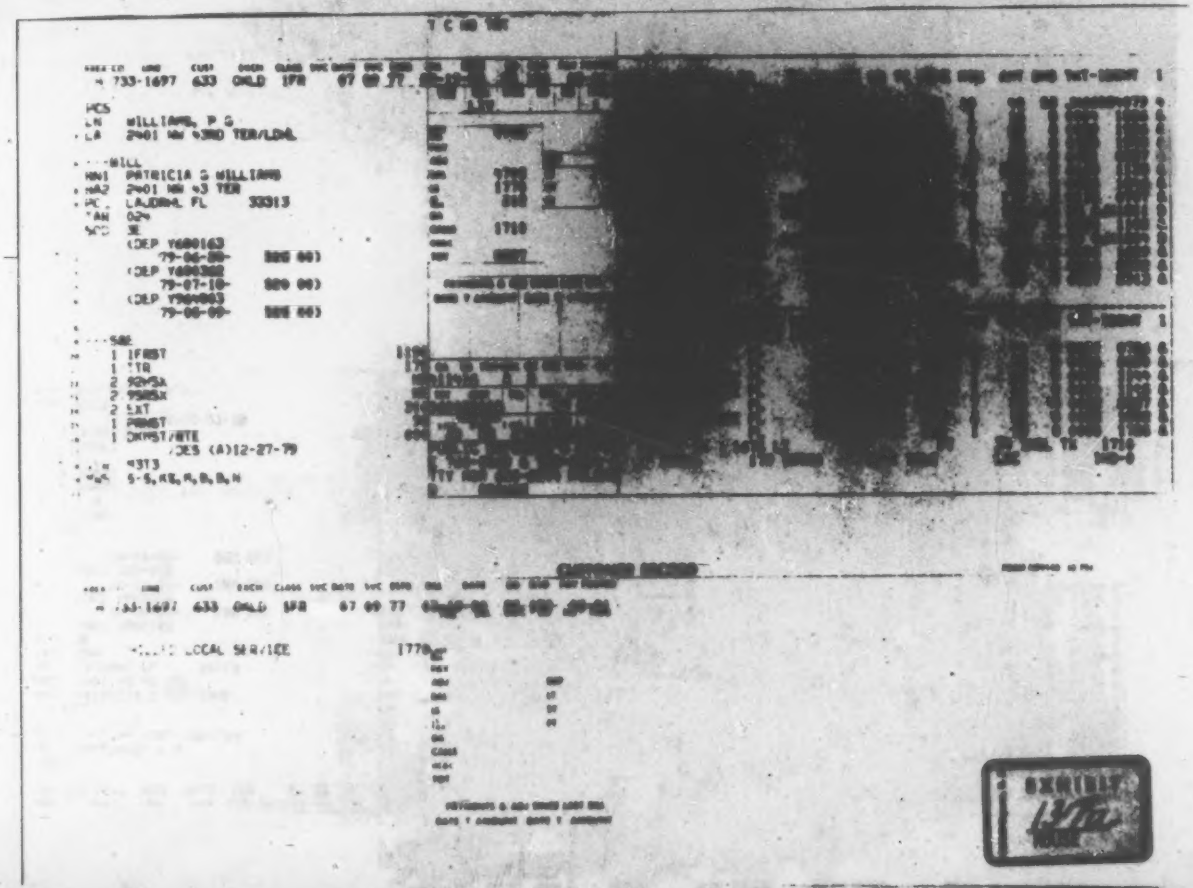


EXHIBIT
1374
HOUSE





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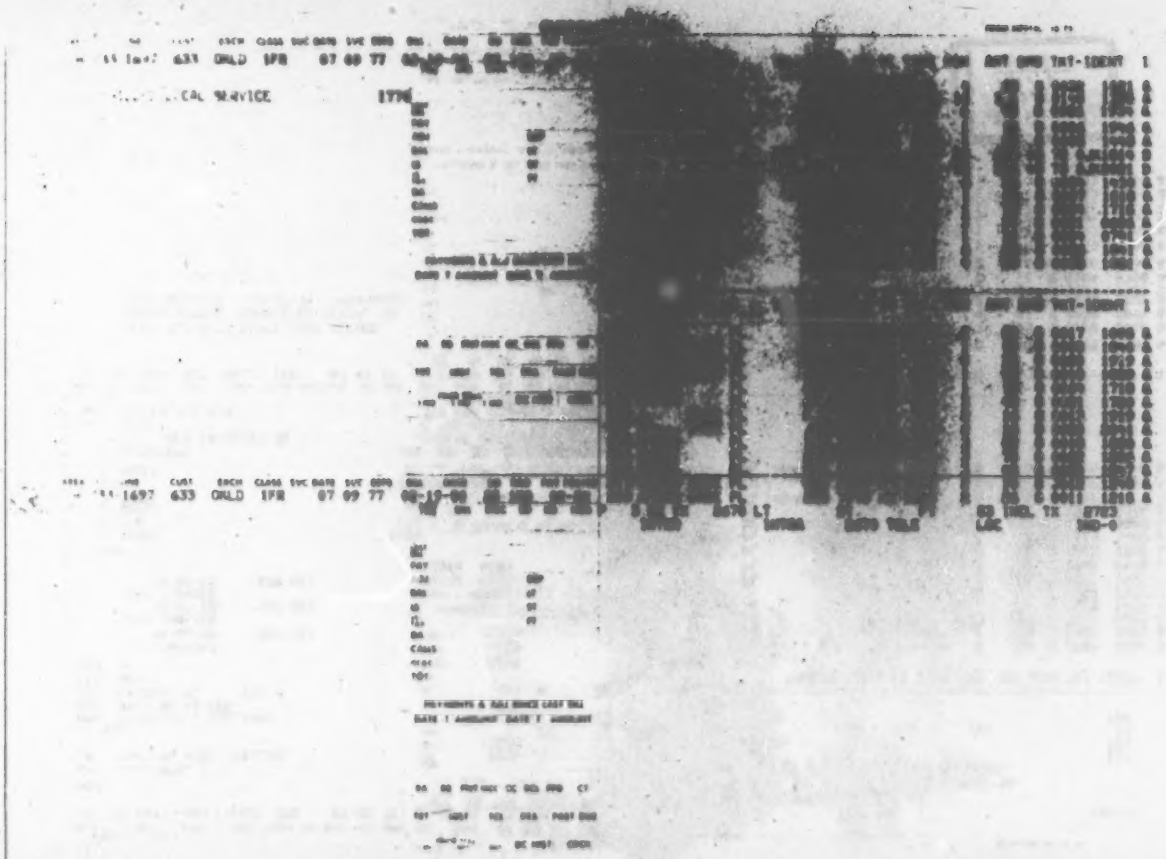


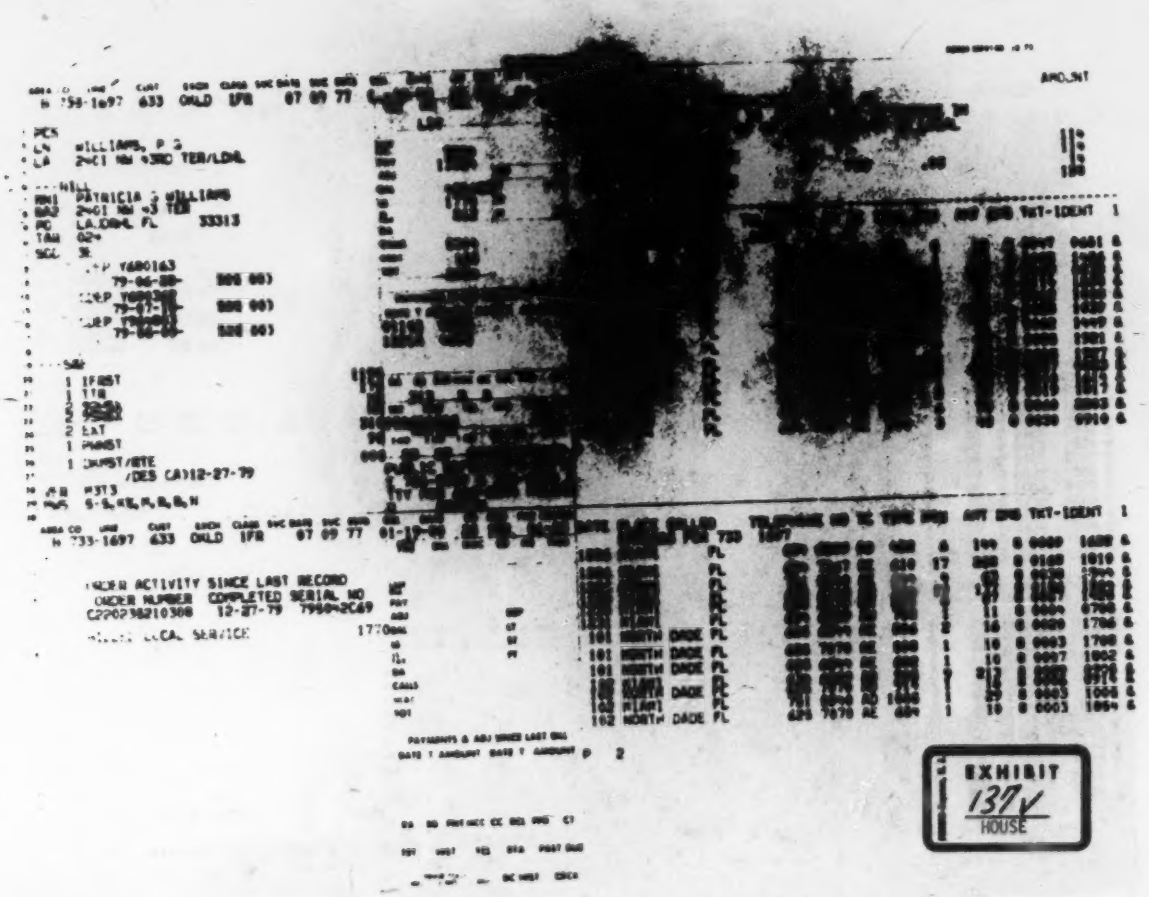
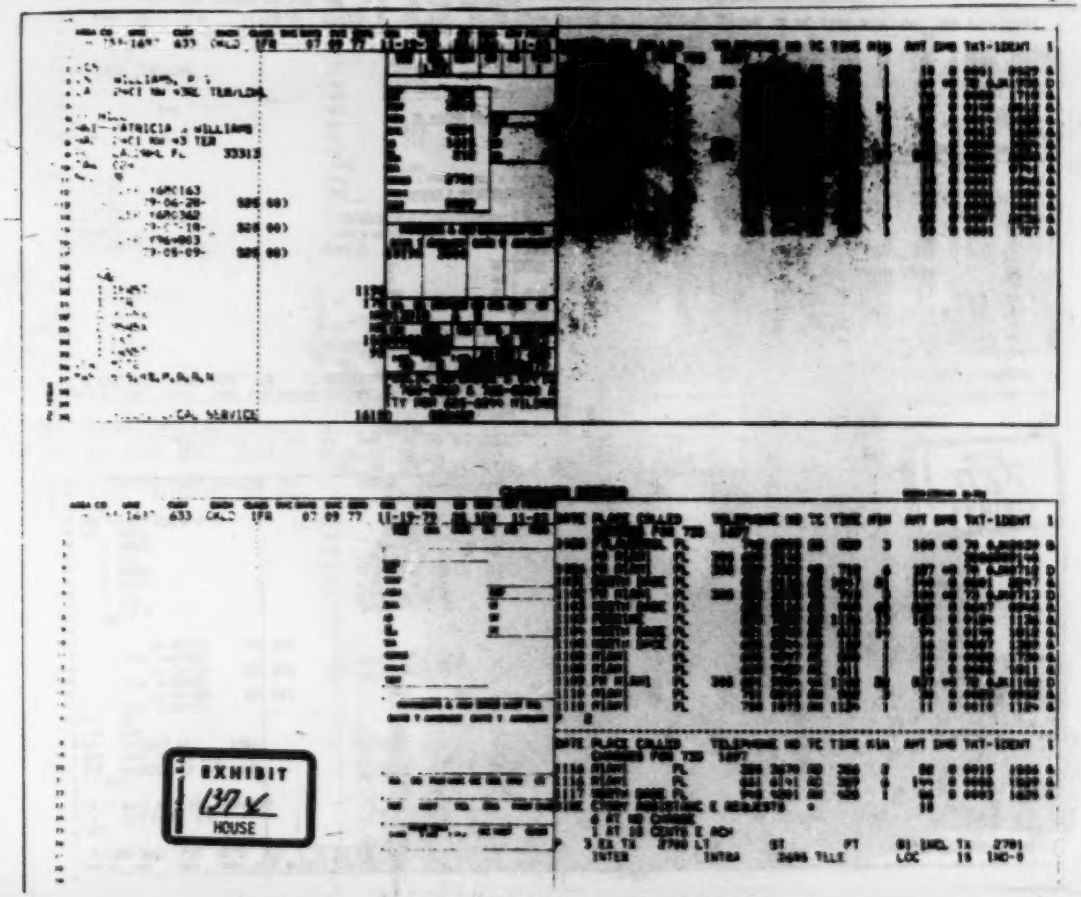


EXHIBIT
137V
HOUSE

EXHIBIT
137W
HOUSE



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137-K
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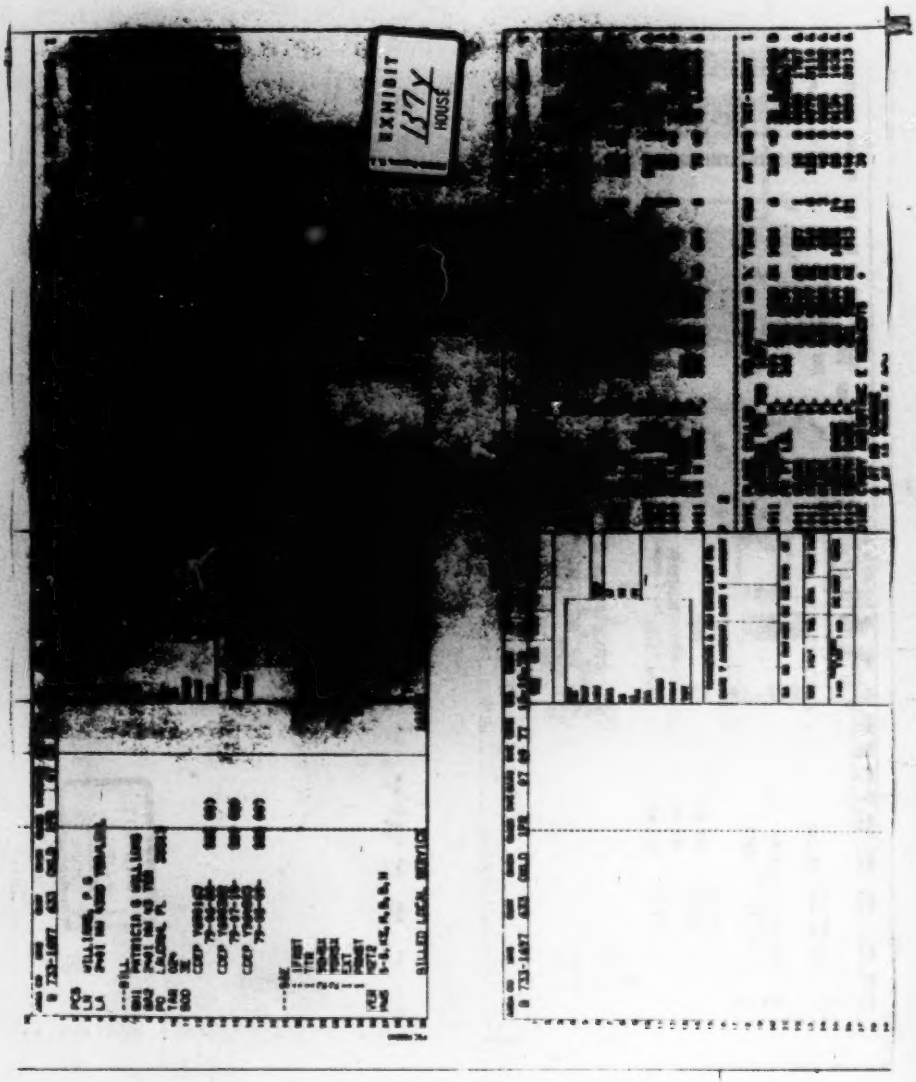
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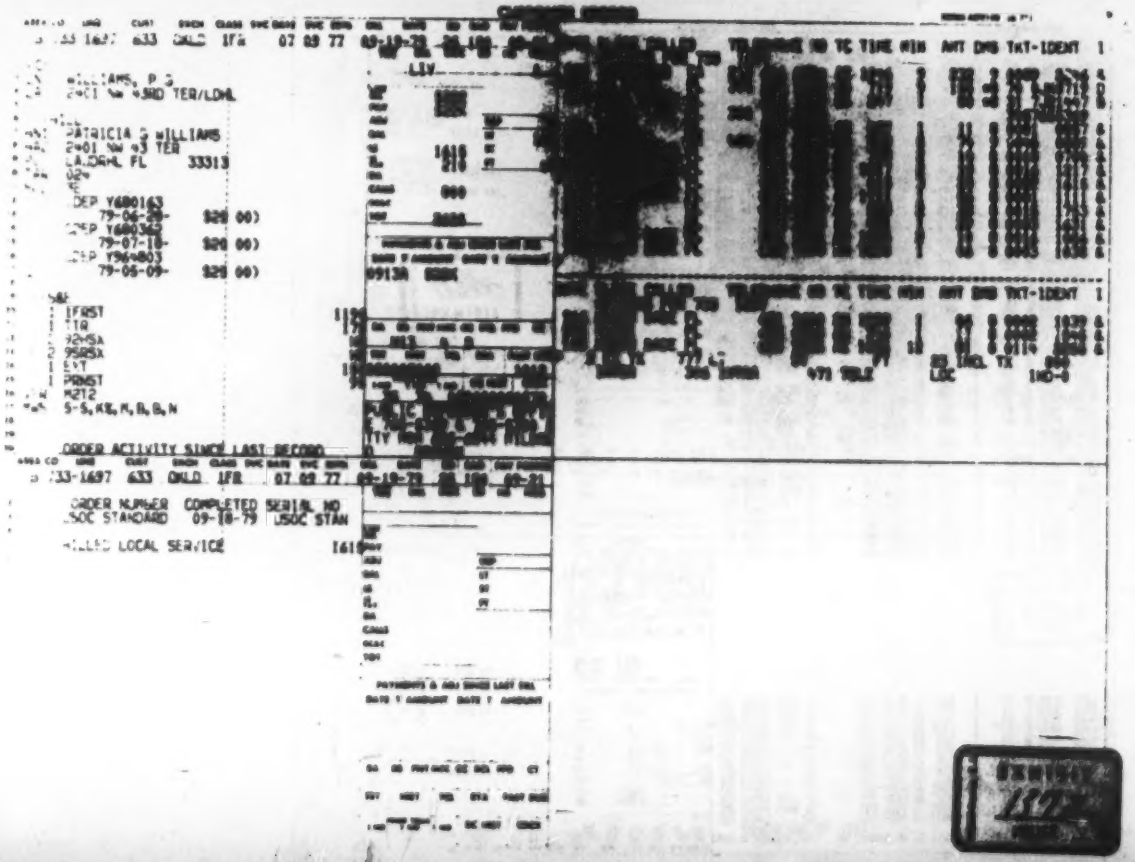
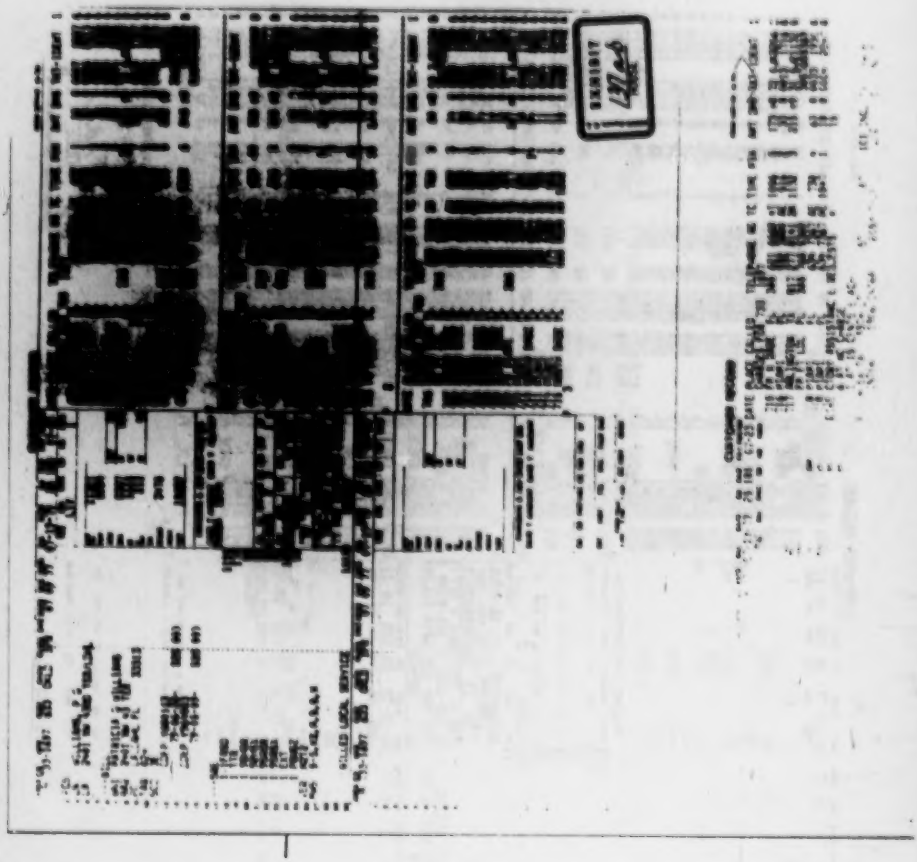
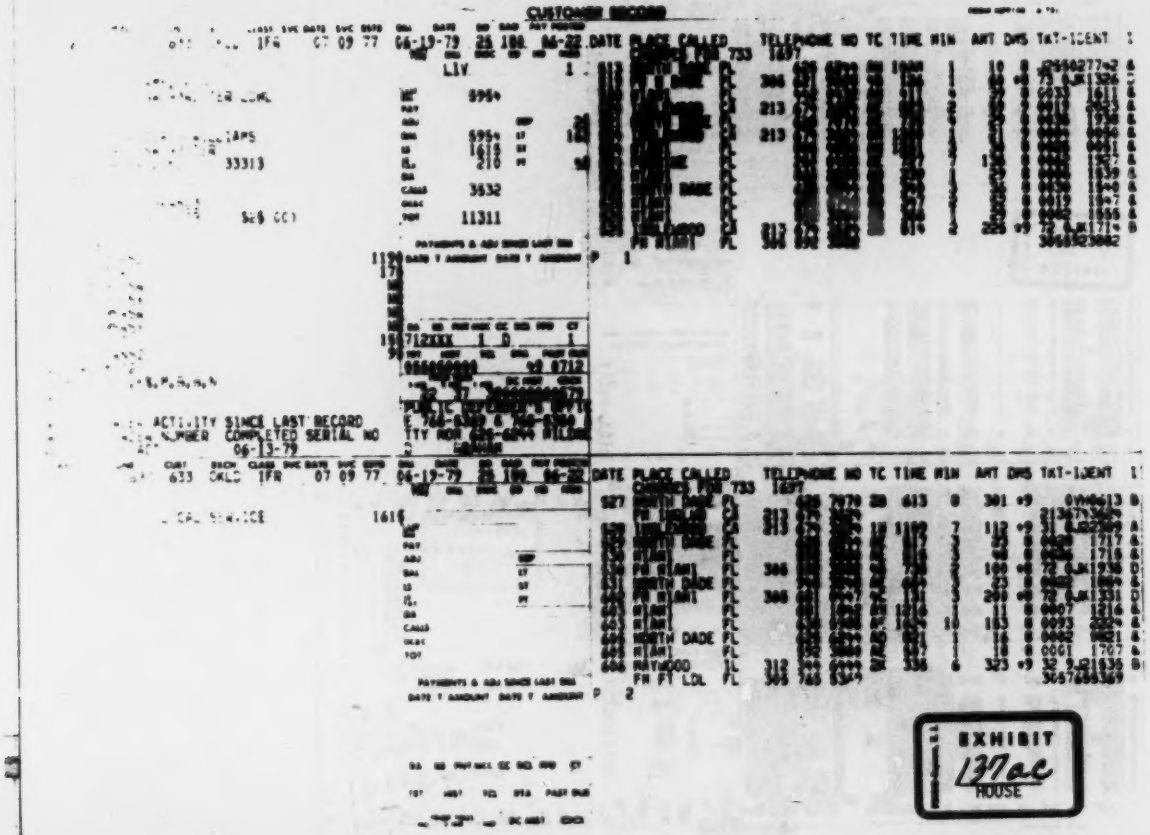


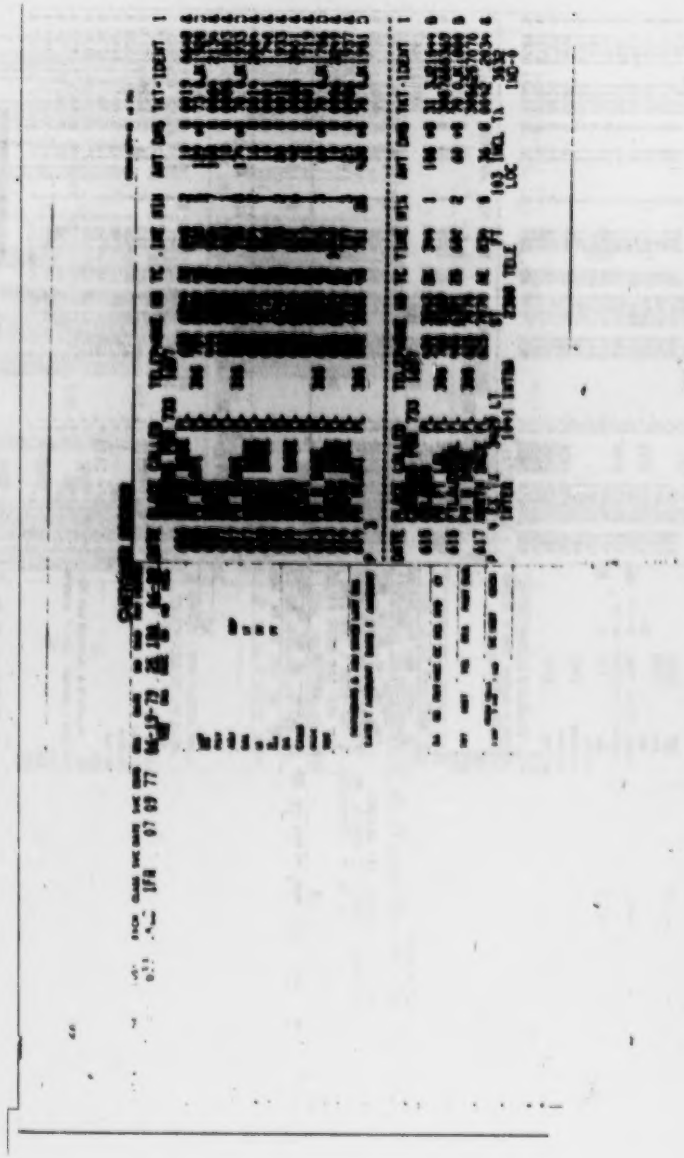
ORDER ACTIVITY SINCE LAST RECORD

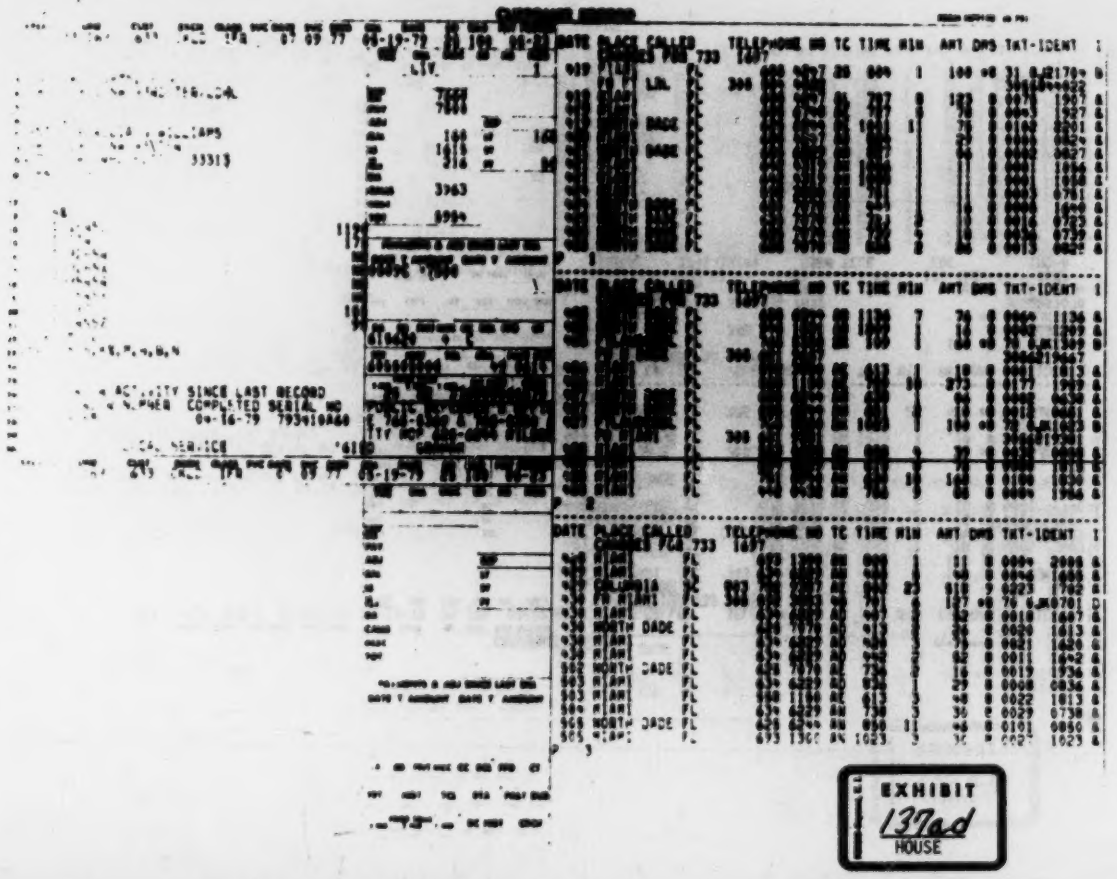
ORDER NUMBER COMPLETED SERIAL NO

EXHIBIT
87ee
HOUSE




CUSTOMER RECORD
DATE PLACE CALLED TELEPHONE NO TC TIME MIN AMT DIS TXT-IDENT
ACTIVITY SINCE LAST RECORD
NUMBER COMPLETED SERIAL NO
06-13-79
EXHIBIT
137ac
HOUSE

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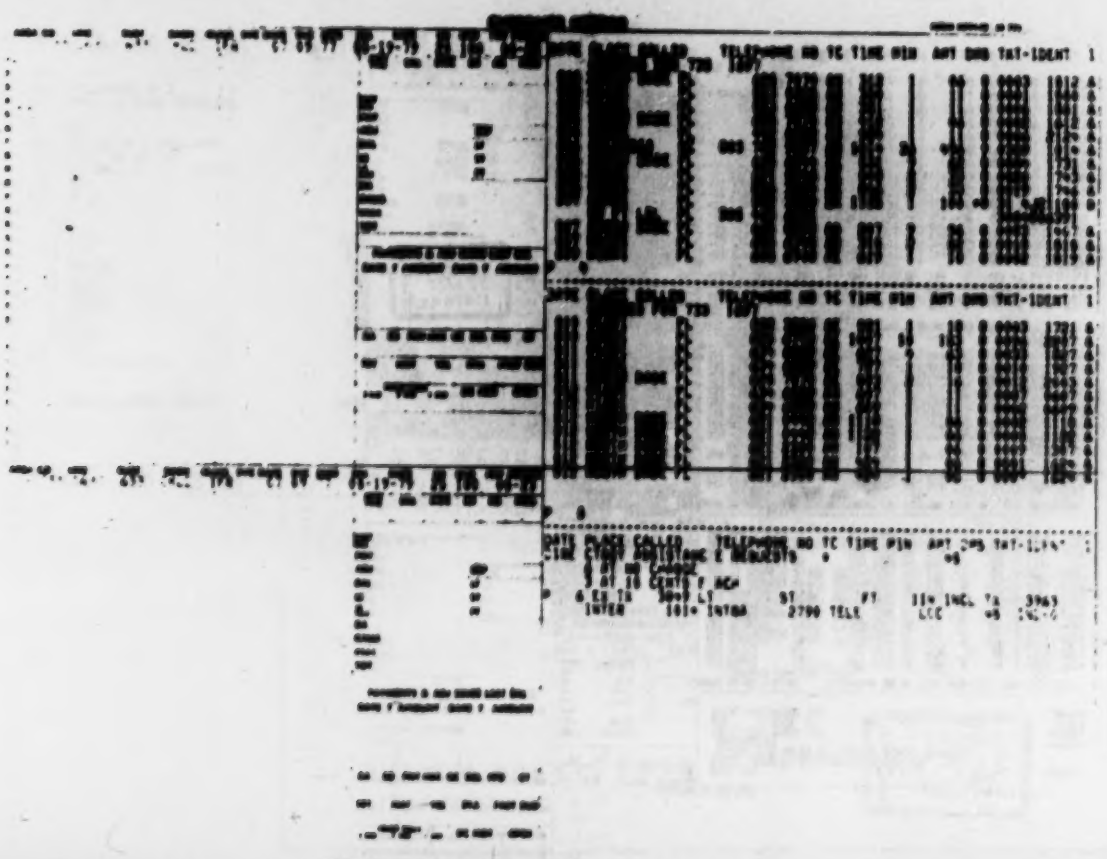
PLACE CALLED
TELEPHONE NO
TC
TIME
MIN
AMT
DMS
TKT-IDENT
EXHIBIT
137od
HOUSE



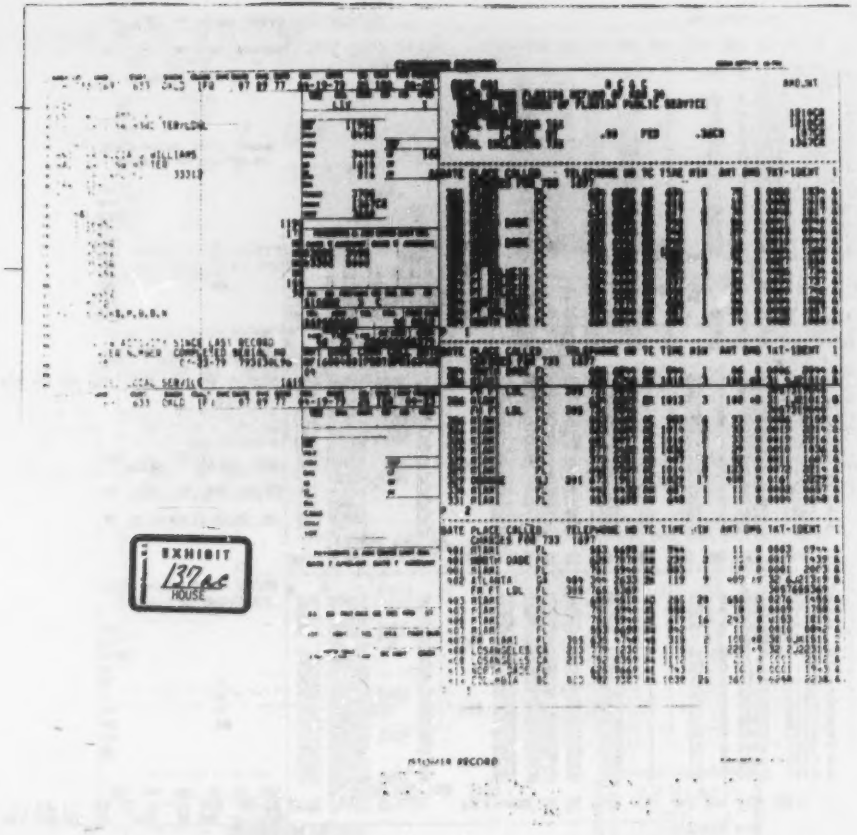


EXHIBIT
137 pc
HOUSE

Memorandum

To : SAC, MIAMI (OC-2) (58-623 SUB J)(P) Date 11/25/81

From : SA JOHN J. SIMMONS, JR.

Subject : APPLE EYE
BRIBERY
OO:Miami

On 10/9/81, SA Simmons was assigned to supervise interviews of members of Judge Alcee Hastings' staff at the US District Courthouse, Miami, Florida. The following Agents were assigned to conduct interviews: SAs Martin J. Adelman, Joseph D. Usher, Alan Sadowski, Lawrence K. Harrigan, Cary Warren Aldrich, Edward R. Schley, J. Kent Cameron, Jr., Dan Daily, Wendy Leucke, Thomas Lyons, and John A. Hunter, Jr. Prior to leaving the Miami Office to begin interviews, a conference was held with the above Agents, during which time the manner in which the interviews would be conducted was discussed. All present were advised that the interviews were to be conducted with as little disruption to Judge Hastings' staff as possible, and key questions to be asked were also discussed.

During mid-afternoon on 10/9/81, SA Simmons was advised via telephone from Washington Field Office to proceed with the interviews. The above-listed Agents, with the exceptions of SAs Harrigan and Leucke, who were assigned an interview at another location, traveled to Judge Hastings' Chambers. SAs Aldrich and Cameron arrived first, proceeded shortly thereafter by the remaining Agents, including the writer. The following individuals were present at the Judge's Chambers when SA Simmons arrived at approximately 2:30 PM: Marilyn Carter, Joann Tyson, Barbara Entzen, and Daniel Simons.

SA Simmons advised the staff by display of credentials, who he and the other Agents were, and that they were conducting an official investigation into bribery allegations involving Judge Hastings. SA Simmons further stated that he did not wish to disrupt the normal course of business; however, the Agents present wished to begin the interviews as soon as possible. Marilyn Carter, Deputy Clerk, was asked to furnish the names of

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all employees present, which she did. Due to the public access to the office area, it was requested that interviews be conducted in a more private area of the Chambers. Marilyn Carter was thereafter interviewed in Judge Hastings' office by SAs Simmons and Usher. The remaining staff members were interviewed one at a time in the library area of the Judge's Chambers. When not being interviewed, staff members moved freely about in the conduct of business. Access to and from the Chambers or any area within the Chambers was at no time restricted to staff members. Shortly after arriving at Judge Hastings' Chambers, it was determined that Law Clerks Jeff Miller and Alan Ehrlich were at Judge Hastings' Fort Lauderdale office. SAs Aldrich and Cameron then left the Chambers to locate Jeff Miller, whom they were assigned to interview. During the interview of Marilyn Carter, she had to take incoming telephone calls, including one for SA Simmons from the husband of Betty Williams, who advised how his wife could be located. Marilyn Carter told SA Simmons to take the call at a phone located on Judge Hastings' desk, a short distance from where SA Simmons was seated.

While the interviews were being conducted, a reporter for The Miami Herald appeared at the Chambers of Judge Hastings, and requested access to the Romano file. In view of the reporter's presence, caution was utilized by all Agents in their statements so as not to alert the reporter as to the purpose of their presence.

During the interview of Marilyn Carter, SA Simmons advised her that he had a Grand Jury Subpoena for records contained in the Judge's Chambers. Carter was then furnished the subpoena, which she read, and indicated she understood. SA Simmons asked if these records were taken at the conclusion of the interviews, would it cause a disruption of the office's functions. Carter replied that the only records that she would need would be the Court Calendar. SA Simmons then asked if it would be possible to give Carter Xerox copies of the Court Calendar to alleviate any disruption, to which she replied that this would be satisfactory. Carter was also advised that all records would be available to her at any time, and that the FBI would provide Xerox copies of these records should it be necessary.

Upon completion of the interviews, SA Simmons requested that Carter obtain the records requested in the subpoena, which she did. Just prior to Carter gathering the records, Jeana Tyson left the Judge's Chambers and returned with US Magistrate Peter Palermo. Magistrate Palermo was introduced to SA Simmons

by SA Usher, at this time, as being an FBI Agent assigned to the Miami Office with SA Usher. Magistrate Palermo stated that Joann Tyson had asked him to review the subpoena prior to any records being turned over to the FBI. Magistrate Palermo spent a few moments reviewing the subpoena, then stated, This is a grand jury subpoena, you have to furnish these records (sic). He also stated that the subpoena was returnable on 10/13/81. Joann Tyson then stated that she just wanted to make sure that the Agents had a right to the records. Magistrate Palermo replied, You have no choice, give them the records (sic). He then stated Chief Judge Atkins was having a conference at 5:00 PM with all the Judges, and he guessed that the Agents' presence at Judge Hastings' office was the subject matter of the conference. Magistrate Palermo then stated that he had to return to his office, and if there were any further need for him, that he should be contacted there.

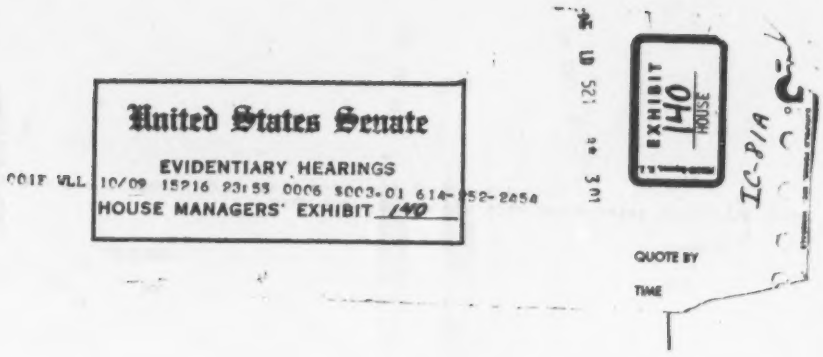
After Magistrate Palermo left, SA Simmons stated to the staff that although he could not control their actions, he requested that they not discuss the investigation with anyone, particularly members of the news media, because of potential damage to Judge Hastings' reputation, and that the allegations were still in the investigative stage.

After Carter had gathered all the records required by the subpoena, SA Simmons furnished a list of those items that were taken as well as the names of several Agents that could be contacted should any of the records be required to conduct business. SA Simmons reiterated at this point that the records would be made available whenever requested, including making Xerox copies, to which Carter again replied would be fine.

At the time the above records were turned over to the FBI, SAs Simmons, Daily and Usher were the only Agents remaining in the Judge's Chambers. The other Agents named above had left to either locate other witnesses or return to the Miami FBI Office. SAs Simmons, Daily, and Usher left Judge Hastings' Chambers at approximately 5:15 PM.

During the time that SA Simmons was at Judge Hastings' Chambers, he requested use of a telephone on several occasions for the purpose of contacting the Miami Office. Marilyn Carter stated that Agent Simmons could use a telephone located on a table in the far left corner of Judge Hastings' office which was placed on top of a work table.

At no time during the above investigation at Judge Hastings' Chambers did SA Simmons observe or hear any Agents restricting the movement of any members of the staff, nor was the conduct of the investigation carried out in anything but a strictly professional manner.


United States Senate
EVIDENTIARY HEARINGS
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PATRICIA S WILLIAMS
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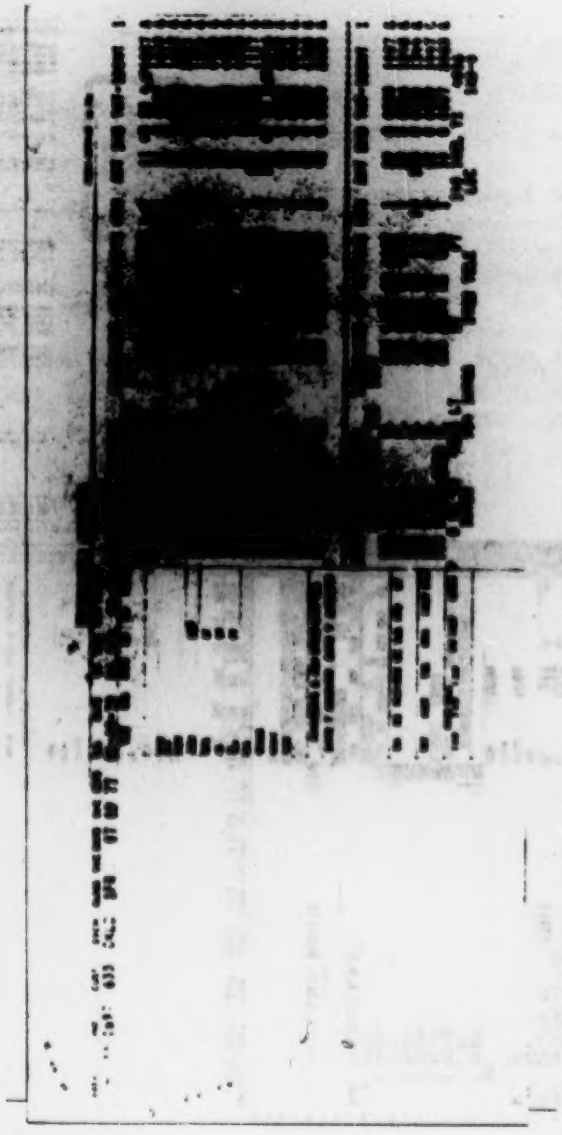

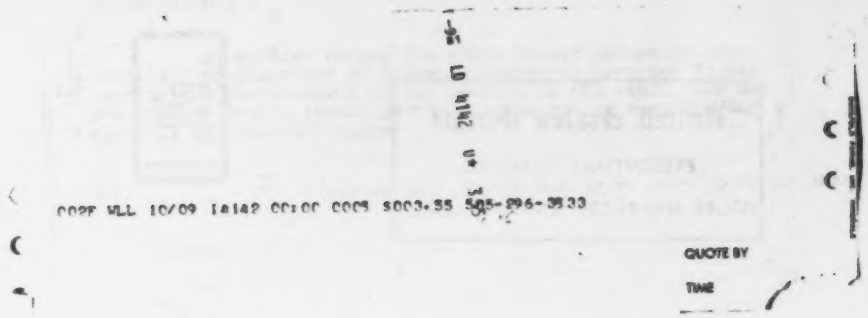
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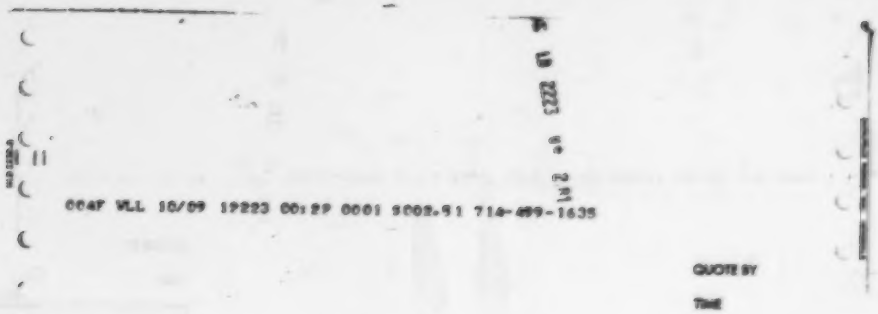
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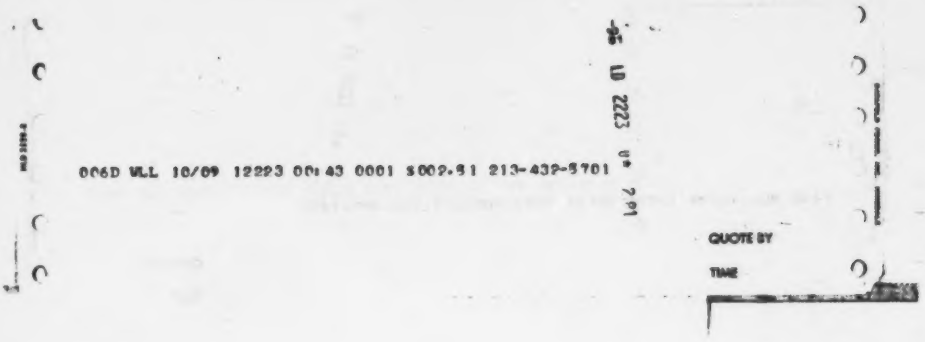
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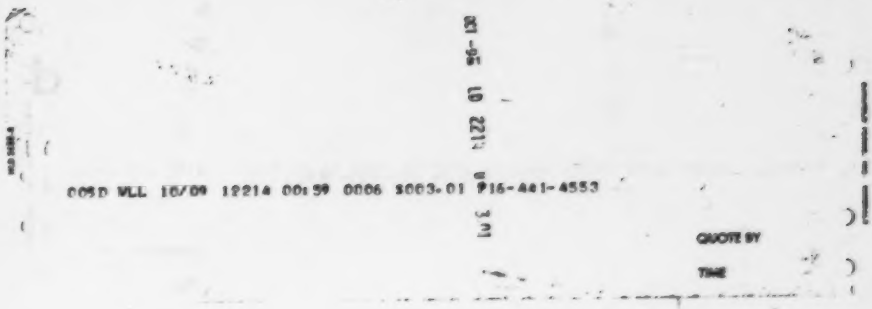
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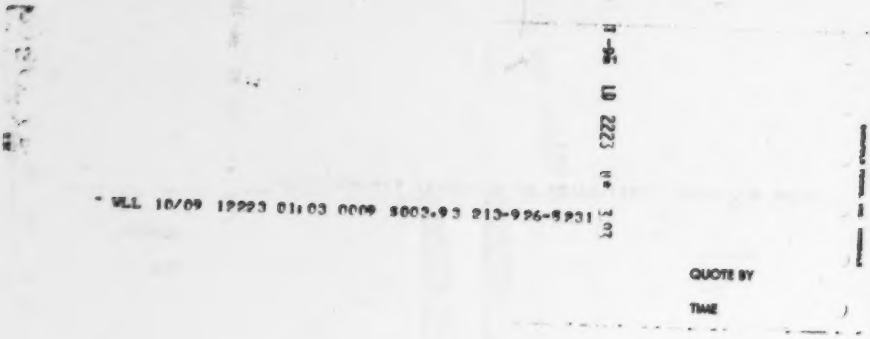
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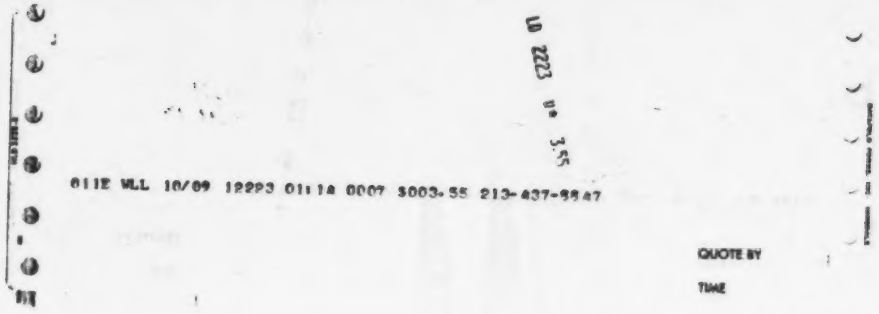
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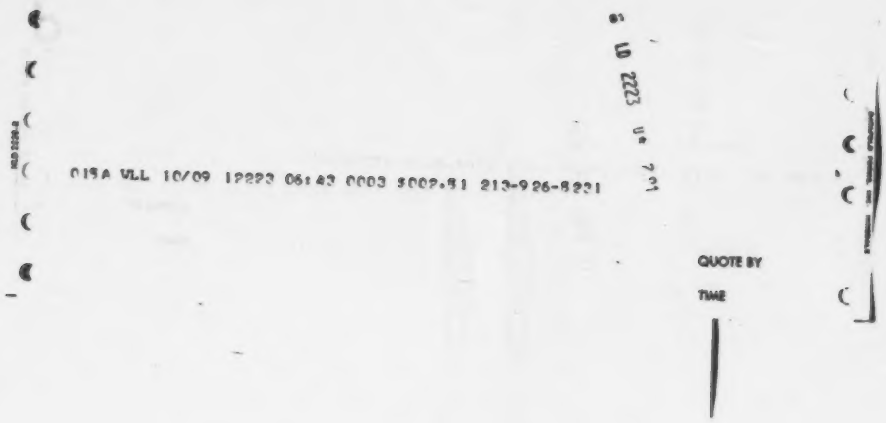
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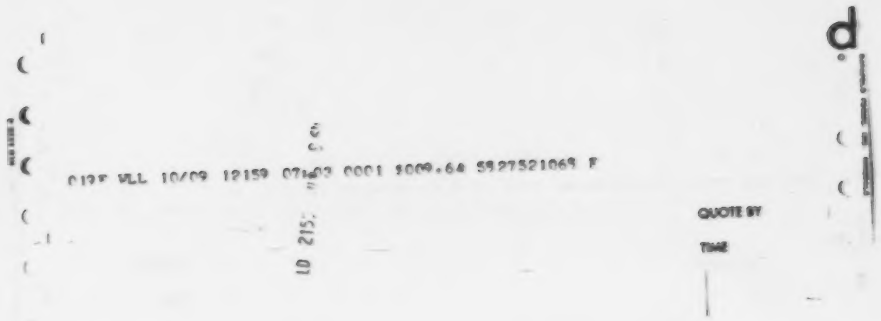
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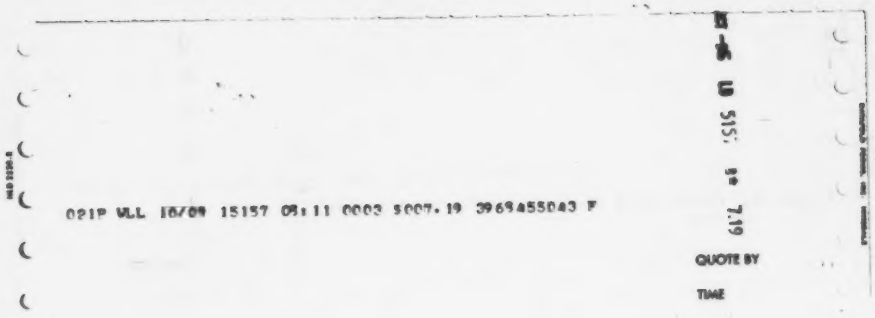
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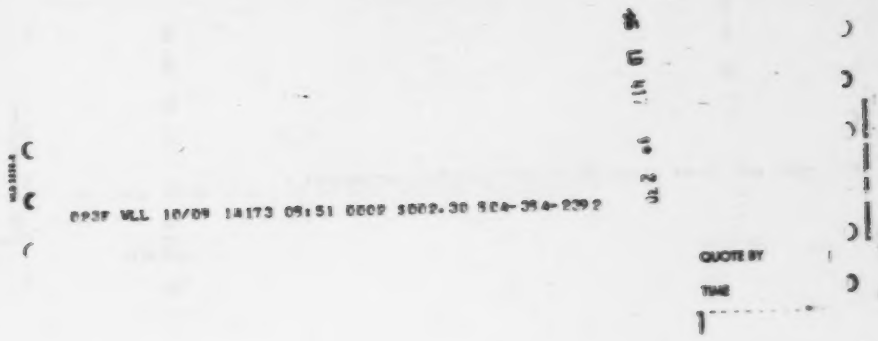
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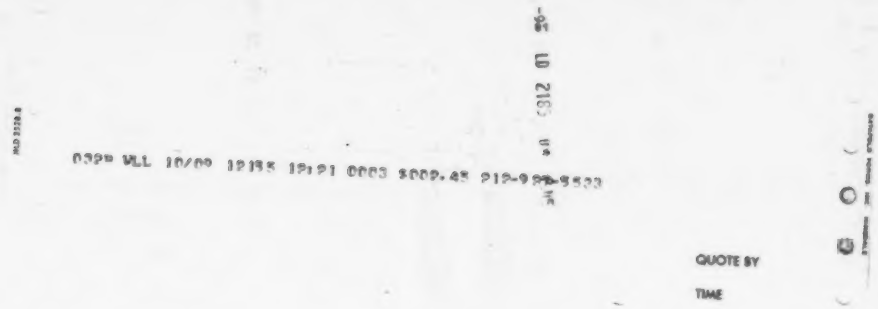
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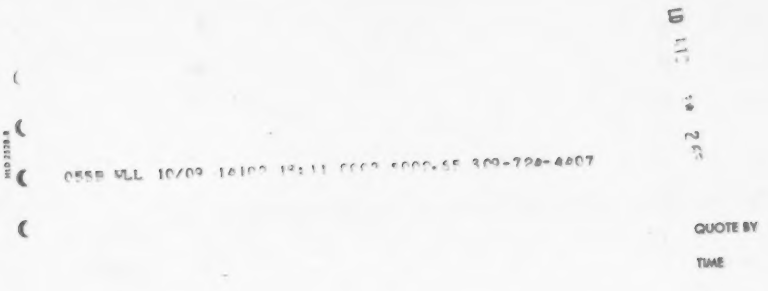
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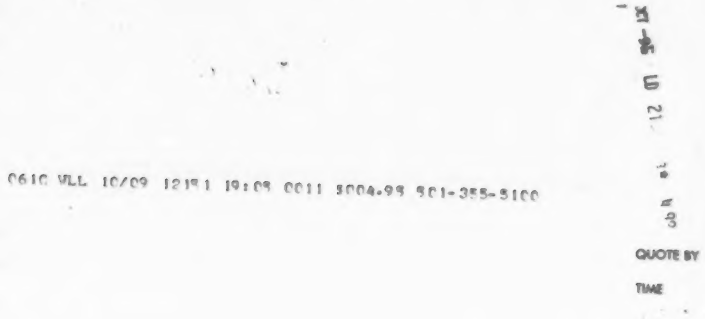
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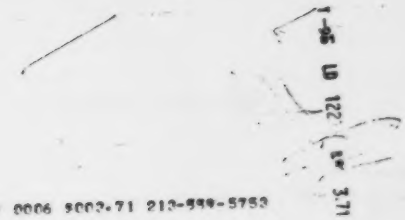

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United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 141

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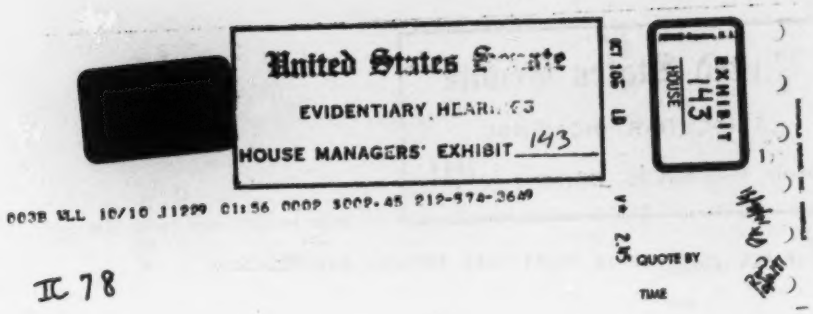
United States Senate
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II 78

CURRICULUM VITAE - Antonio A. Cantu .. Update (March 9, 1987)

Present Position:

January 1986 to Present - Research Chemist with the Office of Protective Research of the U. S. Secret Service. Research includes technical support to the forensic analysis of inks, paper, counterfeit notes and credit cards, development of techniques to enhance fingerprint development and development of countermeasures to environmental threats.

U. S. Secret Service
Technical Development and Planning Division
1310 L Street, N. W. Room 800
Washington, DC 20005

United States Senate
EVIDENTIARY HEARINGS
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EXHIBIT
14-4
HOUSE

CURRICULUM VITAE

Name:

Antonio A. CANTU

Date and Place of Birth:

January 5, 1941
Laredo, Texas

University Education:

Ph.D., The University of Texas, Austin, Texas
Date : June 1967
Major : Chemical Physics
Supervisor : Professor F. A. Matsen
Dissertation: "Some Applications of Spin-Free Quantum Chemistry"

B.S., The University of Texas, Austin, Texas
Date : January 1963
Major: Chemistry
Minor: Mathematics and Physics

Honors:

May 1983 - Received a Department of Treasury Special Achievement Award

Oct. 1980 - Received the Forensic Scientists of the Year Award from the Mid-Atlantic Association of Forensic Scientists

Apr. 1980 - Received a Department of Treasury Special Achievement Award

Nov. 1980 - Received a Department of Treasury High Quality-Pay Increase Award

Sum. 1970 - Awarded an Organization of American States Visiting Professor Fellowship at the Institute of Physics of the University of Mexico (UNAM) in Mexico, D.F.

1965-1967 - Awarded a Robert A. Welch Foundation of Houston, TX Pre-Doctoral Fellowship

1964-1965 - Awarded the Jefferson Chemical Company of Houston, TX Pre-Doctoral Fellowship

Fall 1963 - Received the W. A. Felsing Award in Physical Chemistry - a University of Texas Department of Chemistry Award

Honorary Societies:

Sigma Xi - A national honorary scientific society - Elected Fall 1966

Phi Lambda Upsilon - A national honorary chemical society - Elected Spring 1964

Professional Societies:

Chesapeake Bay Division of the International Association for Identification - Joined Spring 1975

Society for Applied Spectroscopy - Joined Fall 1973
Office held: Chairman of the Baltimore-Washington Section (1981)

Mid-Atlantic Association of Forensic Scientists - Joined Summer 1972
Offices held: President (1977)
Newsletter Editor (1972-1976)

Association of Official Analytical Chemists - Joined Summer 1972

American Chemical Society - Joined Summer 1972

Present Position:

May 1983 to Present - Research Chemist with the Forensic Science Research and Training Group located at the FBI Academy. Research includes studying the aging of ball point ink using spectroscopic methods, the TLC and HPLC analysis of synthetic fibers, the IR analysis of synthetic fibers, and general studies of infrared luminescence phenomena. Duties include teaching in the Chromatography, Questioned Document, and Explosive Analysis courses offered by the FSRTG.

FBI Academy
FSRTG
Quantico, Virginia 22135

Grade Status: GS-13 Step 7 ($45,117.00)

Security Clearance: Top Secret

Past Professional Experience:

Mar. 1973 to May 1983 - Forensic chemist performing analysis of inks and paper for the detection of back-dating fraud or for comparison purposes. Developed the National Ink Tagging Program, researched the analysis of pencil leads and typewriter inks. Developed new techniques for writing ink analysis such as exploring new TLC systems, applying HPLC and investigating the "dryness" of inks using uv-vis spectroscopy and gas chromatography.

Past Professional Experience: (Continued)

U.S. Department of Treasury
Bureau of Alcohol, Tobacco and Firearms
National Laboratory Center, Forensic Branch
1401 Research Boulevard
Rockville, Maryland 20850

June 1972 to March 1973 - Operations research analyst performing in-house research in the applications of science & technology to law enforcement - particularly forensic science and deterrence tactics. This involved providing scientific advice to grant monitors, evaluating research proposals, working with contractors and defining research guidelines.

U.S. Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement and Criminal Justice
633 Indiana Ave., NW
Washington, DC 20530

Apr. 1971 to May 1972 - Research Associate involved with experimentalists in the area of chemical reactivity and diazonium chemistry with emphasis on the nitrogen fixation problem.

Research Council of Alberta
11315 87th Ave.
Edmonton, Alberta
CANADA

Sept. 1970 to Mar. 1971 - Post-Doctoral Fellow with Professor S. Huzinaga doing Hartree-Fock theory of many-electron systems, theories of chemical reactivity and molecular energy computations.

University of Alberta
Department of Chemistry
Edmonton, Alberta
CANADA

June 1970 to Aug. 1970 - Organization of American States Visiting Professor engaged in initiating research in several areas of theoretical chemistry and chemical physics with members of the Theoretical Nuclear Physics Group headed by Professor Marcos Moshinski. Communication was in Spanish.

Instituto de Fisica
Universidad Nacional Autonoma de Mexico (UNAM)
Mexico, D.F.
MEXICO

Past Professional Experience: (Continued)

Mar. 1968 to May 1970 - Post-Doctoral Fellow with Professor W. R. Thorson and S. Huzinaga involved in the area of many-electron theories of solids.

University of Alberta
Department of Chemistry
Edmonton, Alberta
CANADA

June 1967 to Feb. 1968 - Instructor of Chemistry teaching first year chemistry (Fall 1967) and Advanced Quantum Chemistry (Smr. and Fall of 1967).

University of Texas
Department of Chemistry
Austin, Texas 78712

Sept. 1962 to June 1967 - Throughout these graduate student years I was employed as a laboratory instructor, graded for mathematics and chemistry courses and a nuclear magnetic resonance technician.

University of Texas
Department of Chemistry
Austin, Texas 78712

Other Professional Activities (Since 1972):

A. Committee Work:

1. Criminalistics Certification Study Group - An international group which consisted of representatives from federal law enforcement agencies and from international, national and regional forensic science associations. The mission of the group was to determine 1) if it was possible to certify criminalists and 2) what were the possible mechanisms. During 1977 I represented the Mid-Atlantic Association of Forensic Sciences and during 1978 and 1979 I represented the Bureau of ATF.

2. ATF Scientific Library Committee - A group whose purpose was to identify the needs of the ATF library for providing optimum service to the scientists in the laboratory system.

3. Advisory Board in Forensic Studies at the Antioch School of Law - The board consisted of members of the law faculty, representatives from the U.S. Attorney's Office, the Public Defender's Office and several federal law enforcement laboratories. The board developed a Masters Degree program in Forensic Studies. Location was in Washington, D.C.

Other Professional Activities (Since 1972): (Continued)

B. Invited Lecturer:

1. I have routinely lectured on ink and paper analysis at the Questioned Document School offered by the U.S. Secret Service, the Basic Criminal Investigator Course and the Fraud Course given by the Air Force Office of Special Investigation, the Survey of Questioned Document Course offered by the FBI and the Special Agent School given by the Federal Law Enforcement Training Center in Glenco, GA.

2. On numerous occasions domestic and foreign academic groups and professional societies have requested a presentation of my expertise. These are different from the research presentations listed later.

C. Thesis Director:

In August 1977, the Department of Forensic Sciences of the George Washington University (Washington, D.C.) requested that I direct a research project in the area of a scientific examination of pencil lead. The student was Mr. Steve Cain, Questioned Document Examiner with the U.S. Secret Service, and his project was performed as partial fulfillment of the Masters in Forensic Science.

D. Presentation of Research at Professional Meetings:

1. "The Papermate Ink on the Howard Hughes 'Mormon' Will" - Feb. 13, 1985, Plenary Session of the Thirty-Seventh Annual Meeting of the American Academy of Forensic Sciences, Las Vegas, NV.

2. "The Classification of Writing Instruments and Their Inks" - May 23, 1984, Forty-First Annual Conference of the American Society of Questioned Document Examiners, Nashville, TN.

3. "The Relative Aging of Inks as Determined by Extraction Efficiency using Fluorescence Spectroscopy" - Feb. 23, 1984, Thirty-Sixth Annual Meeting of the American Academy of Forensic Sciences, Anaheim, CA.

4. "How Old is an Ink Writing?" - Sept. 25, 1981, Eighteenth Semi-Annual Meeting of the Mid-Atlantic Association of Forensic Scientists, Virginia Beach, VA.

5. "Mathematical Model for Ink Drying and Extraction" - Sept. 20, 1981, Eighth Annual Meeting of the Federation of Analytical Chemistry and Spectroscopy Societies, Philadelphia, PA.

6. "On Ink Dating" - Aug. 18, 1980, Thirty-Eighth Annual Conference of the American Society of Questioned Document Examiners, Vancouver, British Columbia, Canada.

Other Professional Activities (Since 1972): (Continued)

7. "Determination of the Relative Aging of Ink" - Feb. 22, 1980, Thirty-Second Annual Meeting of the American Academy of Forensic Sciences, New Orleans, LA.

8. "Current Status of the Relative Aging of Ink" - Nov. 2, 1979, Eighteenth Eastern Analytical Symposium, New York, NY.

9. "The Parameters of Ballpen Ink Examination" - Feb. 18, 1976, Twenty Eighth Annual Meeting of the American Academy of Forensic Sciences, Washington, D.C.

10. "The Bureau of ATF Ink Identification and Dating Program" - Sept. 8, 1975, Seventh Meeting of the International Association of Forensic Sciences, Zurich, Switzerland.

11. "Document Dating" - Oct. 18, 1973, Second Semi-Annual Meeting of the Mid-Atlantic Association of Forensic Scientists, Taminent, PA.

F. Chairman at and of Professional Meetings:

1. Sept. 20, 1981 - Chaired a Symposium on Current Analytical Problems in the Forensic Laboratory at the Eighth Annual Meeting of the Federation of Analytical Chemistry and Spectroscopy Societies.

2. Oct. 10, 1980 - Chaired a Panel Discussion on Questioned Documents (The Value of Qualified Opinions and Opinion Shopping) at the Sixteenth Semi-Annual Meeting of the Mid-Atlantic Association of Forensic Scientists, Crystal City, VA.

3. May 26, 1978 - Co-Chaired a Session on Criminalistics (Firearms, Explosives, General) at the Eighth Meeting of the International Association of Forensic Sciences, Wichita, KS.

4. Nov. 12-13, 1976 - Co-Chaired the Eighth Semi-Annual Meeting of the Mid-Atlantic Association of Forensic Scientists, Reston, VA.

5. Sept. 10, 1975 - Co-Chaired a Session on Questioned Documents at the Seventh Meeting of the International Association of Forensic Sciences, Zurich, Switzerland.

6. Apr. 26-27, 1974 - Co-Chaired the Third Semi-Annual Meeting of the Mid-Atlantic Association of Forensic Scientists, Rosslyn, VA.

Other Training (Since 1972):

A. "Moot Course Court", Oct. 22 through 26, 1979. Department of Treasury, Bureau of ATF Laboratory Training Course taught at the ATF Laboratory in Rockville, MD.

Other Training (Since 1972): (Continued)

B. "Paper Analysis for the Forensic Sciences", Oct. 9 through 11, 1979. Course presented by the Institute of Paper Chemistry, Appleton, WI.

C. "Effective Letter Writing Workshop", July 24 through 27, 1979. Department of Treasury, Bureau of ATF Training Course taught at the ATF Laboratory in Rockville, MD.

D. "Liquid Chromatography: Theory and Practice", Dec. 11 through 14, 1978. American Chemical Society Short Course (30 Contact Hours) taught at the Virginia Polytechnical Institute in Blacksburg, VA.

E. "Microscopy in Criminalistics", July 31 through August 4, 1978. Course from the McCrone Research Institute in Chicago, IL taught at the ATF Laboratory in Rockville, MD.

F. "Trace Element Analysis X-Ray Workshop", June 23-24, 1975. Produced by The Finnigan Corp. of Sunnyvale, CA and held in Bethesda, MD.

G. "Fluorescence and Phosphorescence", November 18 through 20, 1974. Presented by the American Instrument Co. from Silver Spring, MD.

Publications:

In Theoretical Chemistry

F. A. Matsen, A. A. Cantu and R. D. Poshusta, "Spin-Free Quantum Chemistry. III. Bond Functions and the Pauling Rules," J. Phys. Chem., 70, 1558 (1966).

F. A. Matsen and A. A. Cantu, "Spin-Free Quantum Chemistry. V. Spin Density," J. Phys. Chem., 72, 21 (1968).

F. A. Matsen and A. A. Cantu, "Spin-Free Quantum Chemistry. VII. The Slater Determinant," J. Phys. Chem. 73, 2488 (1969).

A. A. Cantu, "Decomposition of a Projected Slater Determinant into its Valence Bond Components," Mol. Phys., 19, 1 (1970).

A. A. Cantu, "Properties of the Immanant Wavefunction," Mol. Phys. 19, 11 (1970).

A. A. Cantu and A. Hart-Davis, "The Optimum Projected Technique in Many-Electron Treatments," Inter. J. Quantum Chem., V, 297 (1971).

S. Huzinaga, D. McWilliams and A. A. Cantu, "A Comment on the V-State of Ethylene," Inter. J. Quantum Chem., V, 119 (1971).

S. Huzinaga and A. A. Cantu, "Theory of Separability of Many-Electron Systems," J. Chem. Phys., 55, 5543 (1971).

Publications: (Continued)

S. Huzinaga, D. McWilliams and A. A. Cantu, "Projection Operators in Hartree-Fock Theory," a chapter in Advances in Quantum Chemistry, Vol. 6, Academic Press Inc., P. O. Lowdin - Ed., (1973).

D. J. Klein and A. A. Cantu "Symmetry Adaptation and the Relation Between the Spin-Free and Space-Spin Formulations and of Electronic Structure," Inter. J. Quantum Chem., VIII, 223 (1974).

A. A. Cantu, D. J. Klein, F. A. Matsen and T. Seligman, "Second Quantized Formulation of Valence Bond Theory," Theo. Chim. Acta, 38, 361 (1975).

In Physical Organic Chemistry

F. F. Gadallah, A. A. Cantu and R. M. Elofson, "The Pshorr Reaction by Electro-Chemical Generation of Free-Radicals. II. Benzophenone Series - An Alternative Mechanism," J. Org. Chem., 38, 2386 (1973).

R. M. Elofson, F. F. Gadallah, A. A. Cantu and K. F. Shultz, "Redox Behavior of Diazotized Amines in Aprotic Solvents," Can. J. of Chem., 52, 2430 (1974).

In Forensic Science

R. L. Brunelle and A. A. Cantu, "Ink Analysis - A Weapon Against Crime by Detection of Fraud," a chapter in the American Chemical Society Symposium Series No. 13., "Forensic Science", Geoffery Davis - Ed (1975).

Jerry D. Kelly and Antonio A. Cantu, "Proposed Methods for Comparative Evaluation for the Establishment of a Standard System for Ink Identification," Journal of the AOAC, 58, 122 (1975).

D. A. Crown, R. L. Brunelle and A. A. Cantu, "Parameters of Ballpen Ink Examination," J. For. Sci., 21, 917 (1976).

R. L. Brunelle, J. F. Negri, A. A. Cantu and A. H. Lyter III, "Comparison of Typewriter Ribbon Inks by Thin-Layer Chromatography," J. For. Sci., 22, 807 (1977).

Stephen Cain, A. A. Cantu, A. H. Lyter III and R. L. Brunelle, "A Scientific Study of Pencil Lead Components," J. For. Sci., 23, 643 (1978).

Carl Sensi and A. A. Cantu, "Infrared Luminescence: Is it a Valid Method to Differentiate Among Inks?," J. For. Sci., 27, 196 (1982).

A. A. Cantu, "On the Relative Aging of Ink," (in preparation).

Publications: (Continued)

A. A. Cantu, Willard D. Washington, Richard A. Strobel, and Richard E. Tontarski, "Evaluation of FTIR as a Detector for the HPLC Analysis of Explosives," Proceedings of the International Symposium on the Analysis and Detection of Explosives, FBI Academy, Quantico, VA, March 29-31, 1983.

References:

Dr. Joseph L. Peterson
Center of Research in
Criminal Justice
University of Illinois
Circle Campus
Box 4348
Chicago, IL 60680

Richard L. Brunelle, Chief
Laboratory Division
Bureau of Alcohol, Tobacco and Firearms
National Laboratory Center
1401 Research Blvd.
Rockville, MD 20850

Richard S. Frank, Chief
Laboratory Division
Drug Enforcement Administration
1405 I (Eye) Street
Washington, DC 20537

Other references you may wish will be supplied upon request.

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL TOBACCO AND FIREARMS

Report of Laboratory Examination

FORENSIC SCIENCE BRANCH
NATIONAL LABORATORY CENTER
1401 RESEARCH BLVD.
ROCKVILLE, MARYLAND 20850
PHONE: FTS AREA CODE: 301
CHIEF: 443-1443
EVIDENCE ROOM: 443-5447
EXAMINER/ANALYST: 443-5213

TO: *(Use window envelope. Begin typing two lines below date.)*

Special Agent in Charge
Federal Bureau of Investigation
3801 Biscayne Boulevard
Miami, Florida 33137

DATE: December 13, 1982

YOUR: 21207081-D-UI

RE: Apple Eye

OUR: 2I-1028

DATE EXHIBITS RECEIVED: December 8, 1982

DELIVERED BY: S/A David Attenberger

TYPE OF EXAMINATION REQUESTED: Ink

EXHIBITS:

Q11 through Q13 - Three handwritten letters bearing questioned ink entries

RESULTS OF EXAMINATION:

Chemical and physical examinations were performed on the questioned ink entries appearing on Exhibits Q11 through Q13 and the results were compared with each other and with those from inks in our standard ink library.

One class of ink prepared all the black non-ball point ink entries. Representative samples of this ink taken from each of Exhibits Q11 through Q13 contained characteristics which matched those of standard inks available prior to 1981. The blue ball point ink entry ("him") on the back of Exhibit Q-12 matched a standard ink available prior to 1981. Hence no conclusion can be made regarding the date or dates of preparation of Exhibits Q11 through Q13.

DISPOSITION OF EVIDENCE:

The exhibits are being returned to you.

ANTONIO A. CANTU
Chemical Physicist

REVIEWED BY:
DANIEL D. GARNER, Acting Chief
Forensic Science Branch
Scientific Services Division

Copy to:
Director
Federal Bureau of Investigation
Washington, D.C. 20535
Attention: Laboratory Division
Laboratory File #21207081 D UI

ATF F 7100.2 (11-71) EDITION OF 4/70 MAY BE USED

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 145
IC 431

EXHIBIT 145 HOUSE

114

REPORT of the FBI LABORATORY

1 - Mr. Attenberger

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: SAC, Miami (58-633) (SC-2)

December 10, 1962

903

FBI FILE NO. 58-10762

LAB. NO. 21307081 B UI

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 147

Examination requested by: Miami

Reference: Communication dated December 6, 1962

Examination requested: Approved

Specimens received: December 7, 1962

Specimens:

7-2 (5-2-82)

RECORDED
12/7/82
meb"

12/7/82
ATTENBERGER

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Laboratory Work Sheet

To: SAC, Miami (58-623) (OC-2)

FBI FILE NO. 58-10762 115

LAB. NO. 21207081 D UI

YOUR NO.

Re: APPLE EYE;
BRIBERY

Examination by: 12/7/82 DWA

Examination requested by: Miami.

Reference: Communication dated December 6, 1982

Examination requested: Document

Specimens received: December 7, 1982

Specimens:

✓ Q11 Handwritten letter beginning "Dear ____ as you no doubt..."

Q12 Handwritten letter beginning "Hemp, Bill and I..."

Q13 Handwritten letter beginning "Dear ____ "Hemp" is involved..."

7-16
12-10-82
DWA

Specimens Q11→13 contain no of value on other specimens beyond the writing time period could be determined.

Specimens Q11013 are being sent to the ATF Lab for an ink analysis. The results of that report will be the subject of a supp. report.

Photos of Q11→13 are retained.

EVIDENCE TO TOM CAMU 12/8/82, 9:5[illegible]

CHURCHILL

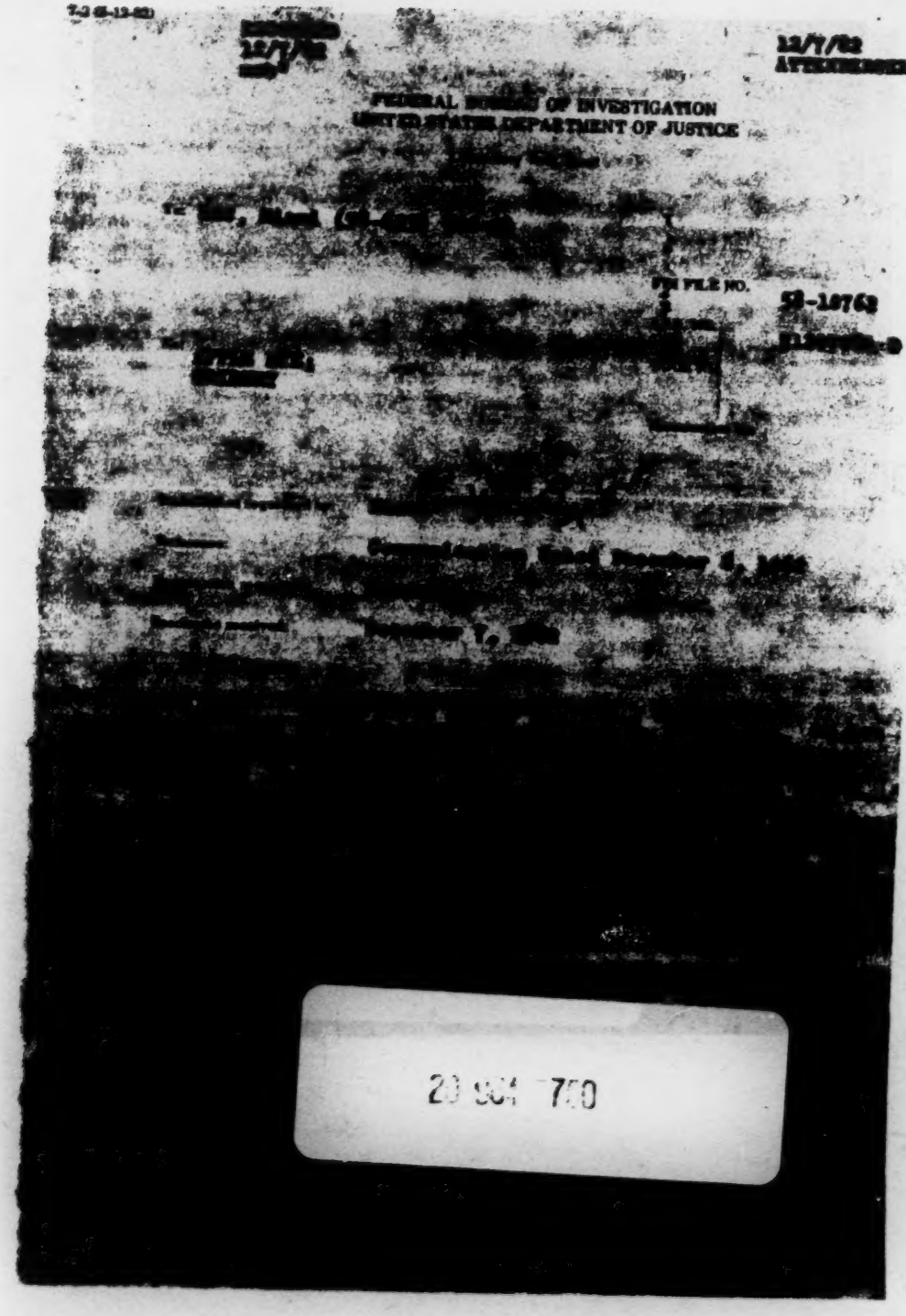
LAB # 2207081 LAB #
FILE # 58-10762 FILE
Date 1/12/82

Call file if previous submission

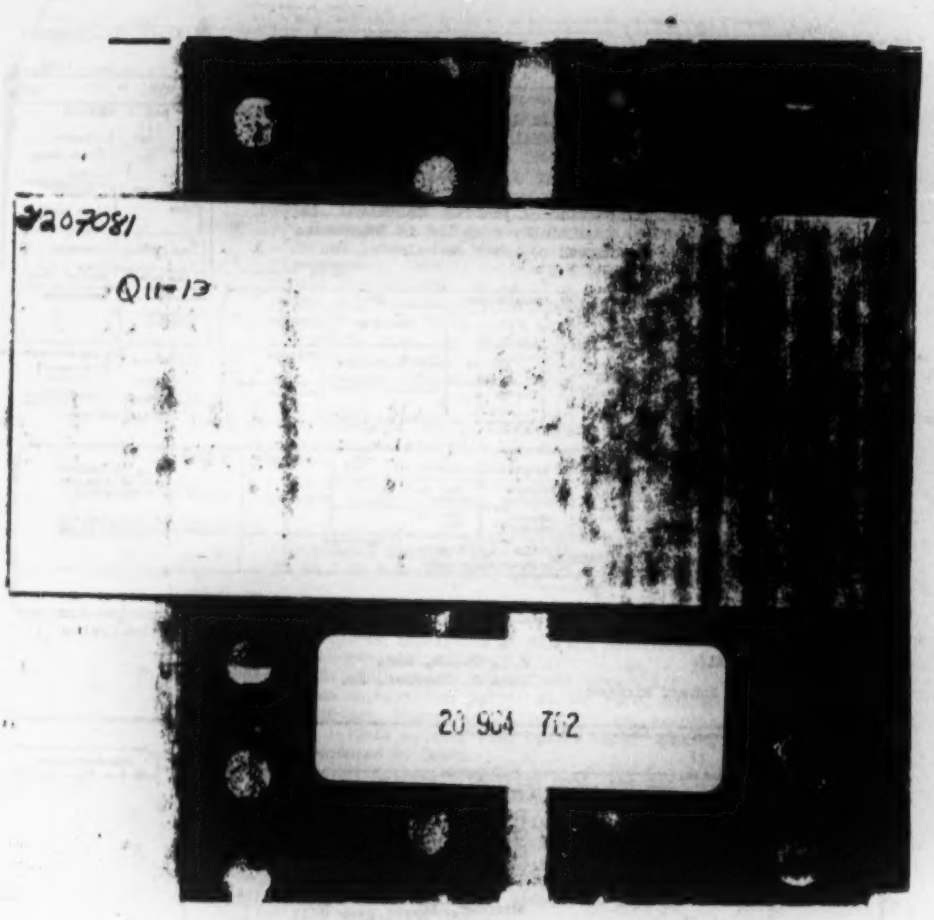
yes Stamp original letter with lab stamp
yes Date rec'd on mail 12/7/82
yes Ltr's & Mls Q 11-13
yes Record evidence 12/7/82
yes Photograph evidence #145

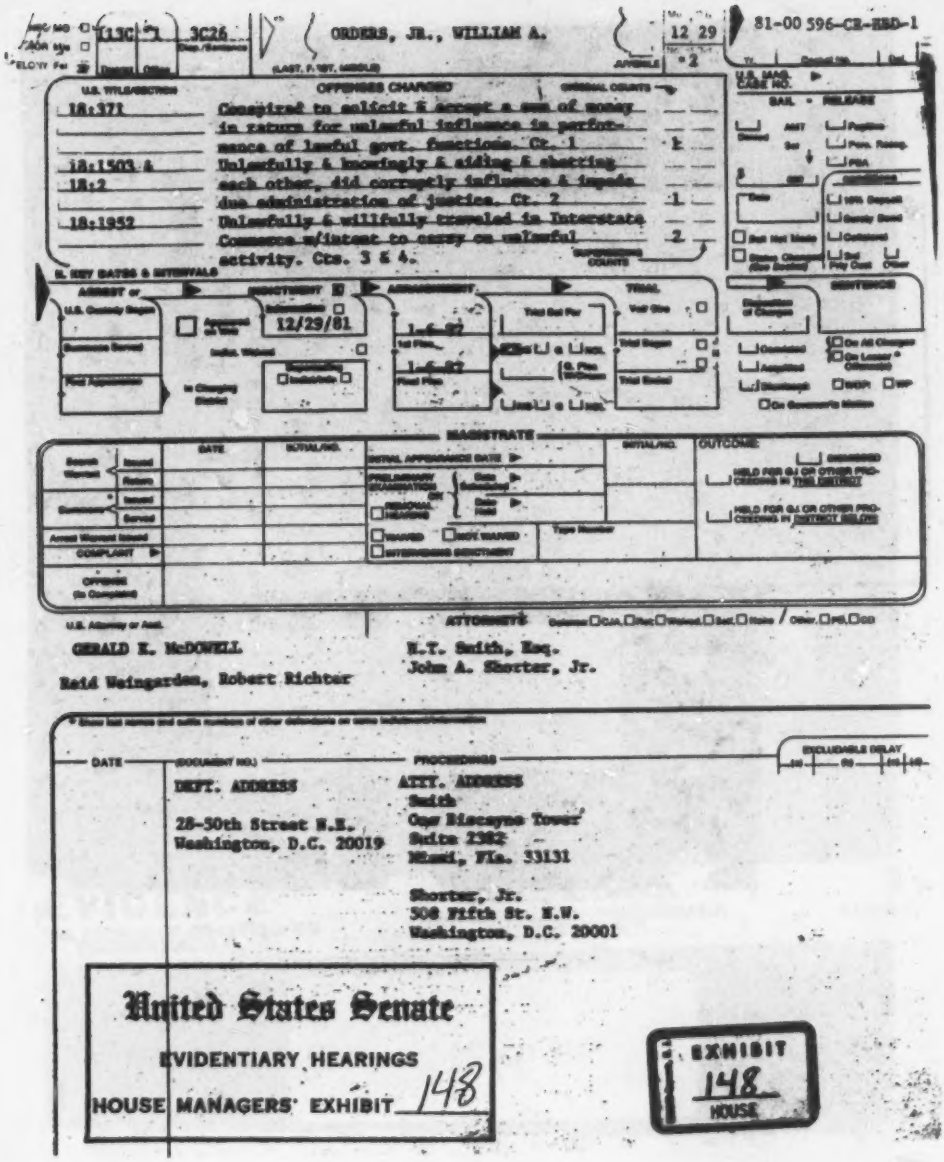
no Recognition & Returned
yes Blocking (original letter) & Returned 12/7/82

no Card Index ____ Returned ____
no [illegible] ____ Rec'd ____
yes [illegible] indented writing negative
no [illegible] ____ FCP ____ Cite ____
no [illegible] ____
✓ [illegible] ____
✓ [illegible] ____
no [illegible] ____
no [illegible] ____
✓ [illegible] ____


12/7/62
ATTENDED
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
FBI FILE NO.
89-10763

EVIDENCE
EVIDENCE
20 904 701


20 964 702



113C 1 3C26 ORDERS, JR., WILLIAM A. 12 29 81-00 596-CR-HHD-1

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
18:371	Conspired to solicit & accept a sum of money in return for unlawful influence in performance of lawful govt. functions. Ct. 1	1
18:1503 & 18:2	Unlawfully & knowingly & aiding & abetting each other, did corruptly influence & impede due administration of justice. Ct. 2	1
18:1952	Unlawfully & willfully traveled in Interstate Commerce w/intent to carry on unlawful activity. Cts. 3 & 4.	2

SUPERSEDING COUNTS

B. KEY DATES & INTERVALS

ARREST or S/A 12/29/81 ARRAIGNMENT 1-6-82 1st Plea 1-6-82 Final Plea TRIAL SENTENCE

MAGISTRATE

	DATE	DOCKET/NO.
Search Warrant Issued		
Search Warrant Returned		
Summons Issued		
Summons Served		
Arrest Warrant Issued		
COMPLAINT		
OFFENSE (in Complaint)		

INITIAL APPEARANCE DATE | PRELIMINARY EXAMINATION | REMOVAL HEARING | WAIVED | NOT WAIVED | INTERVENING INDICTMENT | DOCKET/NO. | OUTCOME: | HELD FOR G.J. OR OTHER PROCEEDING IN THIS DISTRICT | HELD FOR G.J. OR OTHER PROCEEDING IN DISTRICT BELOW

U.S. Attorney or Asst.

GERALD E. McDOWELL

Reid Weingarden, Robert Richter

ATTORNEYS

H.T. Smith, Esq.
John A. Shorter, Jr.

DATE	(DOCUMENT NO.)	PROCEEDINGS	EXCLUDABLE DELAY

DEFT. ADDRESS

28-30th Street N.E.
Washington, D.C. 20019

ATTY. ADDRESS

Smith
One Biscayne Tower
Suite 2382
Miami, Fla. 33131

Shorter, Jr.
508 Fifth St. N.W.
Washington, D.C. 20001

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 148

EXHIBIT 148 HOUSE

NOTE THE APPLICABLE DOCKET ENTRIES SHOW (SECTION V. ANY OCCURRENCE OF EXCLUDABLE DE Y PER 18 USC § 3161(h)

DATE 1981		PROCEEDINGS (continued) PAGE O	V. EXCLUDABLE DELAY
Dec. 29	1	INDICTMENT ret'd at Miami, Fl. mp	1-4
30	2	ORDER(KBD): Hon. KBD hereby recuses himself from this matter in accordance with the Code of Judicial Conduct for U.S. Judges, Canon 2, in order to avoid any appearance of impropriety, & upon such other grounds as may exist. (EOD/M-1/5/82)CCAP. mp	10
30	3	ORDER(CCA): Pursuant to authority imposed by the affected judges, Hon. CCA does hereby petition the Hon. John C. Godbold, Chief Judge of the 11th Circuit, to cert. to the Advisory Committee on Inter-Circuit Assignments, the need for a judge to be assigned to try the above case & a designation by Chief Justice Warren Burger of a judge for such purpose. (EOD/M-1/5/82)CCAP. mp	11
1982			
Jan. 4	4	ORDER OF REASSIGNMENT: Case is hereby reassigned to Hon. Edward Thaxter Gignoux of Portland, Maine & all documents hereinafter shall be filed in case no. 81-596-CR-ETG. (Deputy Clerk M. Powell). Copies mailed to U.S. Atty. mp	12
7	5	HASTINGS: Arr.Proc. Deft Appeared requested a Cont. Continuance Granted. Deft to appear on 1-12-81 at 2:00 P.M. for Arr. (MEMO ENTRY) jl	
12	6	HASTINGS: Notice of Appearance of Joel Hirschhorn as counsel for deft. jl	13
12	7	HASTINGS: Notice of Appearance of William Waterman as co-counsel for deft. jl	14
13	8	HASTINGS: ARR: Deft stands mute; Court enters N/G Plea on behalf of Deft. $1,000 Pers. Recogn. bond set. Trave restrictions lifted. Hearing on 1-19-82 at 2:00 P.M. before Judge Gignoux announced by Court. jl	15
13	9	BORDERS.: NOT. of hearing. Pre-trial conf. set for HASTINGS: 1-19-82 at 2:00 P.M. before Judge Gignoux. jl	16
11	10	BORDERS: ARR. 1-6-82, Plea-N/G. Trial date to be set. Bond set at $25,000 Pers. Surety. jl	17
11	11	BORDERS: STANDING Disc. Order., 15 days to file mots. (PRP 1-8-82) jl	18-21
11	12	BORDERS: AMENDED Standing Disc. Order., 10 days to file mots. (PRP-1-6-82) jl	22-25
11	13	BORDERS: ORDER:(PRP) Deft is required to execute the following type of appearance bond. Pers. Recogn. in amt $25,000.Spec. Cond. unrestricted travel privileges throughout U.S.(EOD-M-1-13-82) jl	26
11	14	BORDERS: APPEARANCE Bond. posted on 1-6-82 in amt $25,000 Pers. Surety. jl	27-28

RELEASE/RESTITUTION PAYMENTS

PER DATE RECEIPT NUMBER

DATE 1982	(DOCUMENT NO.)	IV. PROCEEDINGS (CONTINUED)	PAGE NO.	V. EXCLUDABLE DELAY
Jan. 14	15 HASTINGS:	MOT. of appearance of James J. Hogan, Esq. as counsel of records. mg		
14	16 HASTINGS:	TRANSCRIPT of Arr. Proc. before Judge C. William Kraft on 12-12-82. Pages 1-11: jl		
19	17 HASTINGS:	ORDER(ETC) Standing Disc., All mots. concerning matters not covered by S.D.O. must be filed by 2-1-1982, mots to suppress by 2-8-1982.(1-19-82) jl		
19	18 BOTH DEFTS:	DISC: Inventory. jl		
19	19 HASTINGS:	LETTER from U.S. Atty Weingarten to Atty Hirschhorn regarding Disc. information. jl		
19	20 BORDERS:	LETTER from U.S. Atty Weingarten to Atty Smith regarding Disc. information. jl		
19	21 HASTINGS:	MOT. for Disc. and Inspection relating to Electronic Surveillance. jl		
19	22 HASTINGS:	UNOPPOSED Mot for protective Order and to Seal all Doc. & tape recordings relating to Electronic Surveillance. jl		
19	23 HASTINGS:	ORDER(ETC) 1) Any and all documents,of any description, including but not limited to, authorizations, applications, affidavits and orders which relate to Ovot. utilization of elect. surveillance shall be sealed from public view and shall only be accessible to the parties,their counsel, staff until furth Order of this Court. 2) All tape recordings of intercepted comm. & transc. relating thereto shall likewise be sealed in accordance with terms outline herinabove. 3) Violation of this Order may be punished by contempt of court. (ROD-M-1-20-81)CCAP. jl		
19	24 BOTH DEFTS:	MINUTES OF THE COURT: The defts. and their counsel appeared before the Hon. Edward Thaxter Gignoux for a pre-trial hearing. The following schedule was worked out: (All motions will be heard by the Court not the Magistrate) 1. All motions except electronic surveillance and motions to suppress will be filed by 2-1-82, responses 2-18-82. 2. Motions to suppress to be filed by 2-8-82, responses 2-18-82. 3. There will be a hearing on Non-Evidentiary motions at 9:30 A.M. on 2-17-82. 4. Hearing on evidentiary matters tentatively set for 3-1-82. Cont.		

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs Hastings et al.

81-596-Cr-ETG

Yr. | Docket No. | Def.

DATE 1982	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
		5. Trial in this matter set for 3-22-82 at 10:00 A.M. (Approximately 2 wks. to try). pa				
JAN 22	25	HASTINGS: APPEARANCE bond posted on 1-12-82 in amt of $1,000 Pers. Surety. jl		54-55		
28	26	HASTINGS: LETTER from Joel Hirschhorn to U.S. Atty Weingarten re: Disc. mat. etc. jl		56-57		
28	27	BOTH DEFTS: ORDER(EJG) A. defts file all pre-trial mots bry 2-1-82,other mot.than suppress by 2-10-82. B. Defts file all mots. to to suppress by 2-18-82. C. All nonevid. mots. be assigned for hrng on 2-17-82 at 9:30 A.M. D. All evid. mots. be assigned for hearing on 3-1-82 at 9:30 A.M. E. Trial on 3-22-92 at 10:00 A.M.(EOD-M-1-29-82) jl		58		
28	28	BOTH DEFTS: GOVT's Mot. to transfer Custody of seal- materials form the Dist. fo Columbia to the Southern Dist. of Florida and for auth. to provide copies of materials to def. counsel. jl		59-60		
28	29	BOTH DEFTS: ORDER(ETG) 1) Any and all documents rel. by Dist. Corut of Dist. of Columbia to the custody of the F.BI relating to case be retained under seal and be transferred by the FBI to the custbdy of the Clerk of Court of the Southern Dist. of Fla. 2) Govt is auth. to rel. to de. counsel copies of the sealed documents referred to in the previous papagraph. EOD-M 1-29-82 jl		61		
FEB 1	30	HASTINGS: CERT. of Ser. Pursuant to Rule 10 (G) jl		62-63		
1	31	HASTINGS: MOT. of filing without prejudice to attack personal and subject matter jurisdiction. jl		64-68		
1	32	HASTINGS: MOT. To Quash Ind. and Dismiss Proceedings for lack of jurisdiction. jl		69-94		
1	33	HASTINGS: MOT. To Dis. Due to failure to allege Crimes and Inc. Memo. of Law. jl		95-96		
1	34	HASTINGS: MOT. For Statement of Particulars And Inc. Memo. of Law. jl		97-100		
1	35	HASTINGS: MOT. To Preserve Evid. and Inc. Memo. of Law. jl		101-105		
1	36	HASTINGS: MOT. For Govt. aGents to retain rough Notes and Inc. Memo. of Law. jl		106-109		
1	37	HASTINGS: MOT. To require Govt disclosure of co-deft cooperation and Inc. Memo. of Law. jl		110-112		
1	38	HASTINGS: MOT. For Disc. and Production and Inc. Memo. of Law. jl		113-115		

AO 256A

CONT.

Interval | Start Date | Ltr. | Total

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1987	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
FEB. 1	39 HASTINGS:	MOT. For additional Disc. and Specific request for all BRADY/AGURS, NAFUE, And GIGLIO Mat and Inc. Memo of Law. JI		134-136		
1	40 HASTINGS:	MOT. For Production fo All Interview Statments of Witnesses that the Govt does not intend to produce at Trial and Inc. Memo. of Law. JI		137-139		
1	41 HASTINGS:	MOT. To compel early Production fo all G. J. Test. and Inc. Memo. of Law. JI		140-142		
1	42 HASTINGS:	MOT. For statements of Indicted and unindicted co-defts. and alleged co-conspirators and Inc. Memo. of Law. JI		143-145		
1	43 HASTINGS:	MOT. For all "Jencks" mat. early disclosure of same, and Inc. Memo. of Law. JI		146-148		
1	44 HASTINGS:	MOT. For List of Witnesses and Inc. Memo. of Law. JI		149-151		
1	45 HASTINGS:	MOT. For Order Requiring Govt to produce Govt witnesses so that deft's counsel can interview them and Inc. Memo of Law. JI		152-154		
1	46 HASTINGS:	MOT. For Order requiring Govt to state whether it intends to call confidential informant(s) and Inc. Memo. of Law. JI		155-157		
1	47 HASTINGS:	MOT. For Productionof Psychatric evaluation of any Govt witness and Inc. Memo. of Law. JI		158-170		
1	48 HASTINGS:	MOT. For disclosure of Rual 404 Evidence and and Inc. Memo. of Law. JI		171-175		
1	49 HASTINGS:	MOT. For Pre-trial JAMES Hearing and Inc. Memo. of Law. JI		176-178		
1	50 HASTINGS:	MOT. For extension of time within which to file additional Mots and Inc. Memo. of Law. JI		179-185		
1	51 HASTINGS:	MOT. of Appearance of Andrew P. Mavrides, as counsel for deft. JI		186-187		
1	52 HASTINGS:	SPEC. Mot. for Disclosure of Information pertaining to multiple G.J. Investigations & Inc. Memo. of Law. JI		188-189		
1	53 HASTINGS:	MOT. To Dis. Indictment and/or to issue an Order of Civil contempt against the Justice Dept. JI		190-196		
1	54 HASTINGS:	DEFT's Hastings' Mot for Severance. JI		197-199		
1	55 HASTINGS:	MEMO. of Law in Support of Mot. for Severance. JI		200-204		
1	56 HASTINGS:	MEMO. of Law in support of mot to Dis. Ind. and/or to issue an Order of Civil contempt against the Justice Dept. JI		205-241		
3	57 BORDERS:	MOT. Requesting Not. of Govt's intention to use evid. and for leave to move to suppress the same. JI		142-189		
3	58 BORDERS:	MEMO. in Support of Mot. Under Rule 12(d)(2). JI		144-147		
3	59 BORDERS:	MOT. To Dis. Cts. 3,4, of the Ind. JI		248-		
3	60 BORDERS:	MEMO. in support of Mot. to Dis. Cts. 3,4. JI		249-268		

AO 298A

CONT.

Excused (see Section II) | Start Date End Date | Ltr. Code | Total Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs

BORDERS, JR., WILLIAM A, ET AL

81-00596-CR-ETG
Yr. | Docket No. | Def.

DATE 1982	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
FEB. 3	61 BORDERS:	MOT. For Early Production of Rule 26.2 Statements. jl				
3	62 BORDERS:	MEMO. of Auth. in support of Early Discl of rule 26.2 Mat. jl				
3	63 BORDERS:	MOT. For A James Hearing. jl				
3	64 BORDERS:	MEMO. in support of Mot. for A James Hearing on the existence of a conspiratorial Agreement. jl				
3	65 BORDERS:	MOT. Of Deft for A Change of Venue. jl				
3	66 BORDERS:	MEMO. in support of mot. of deft for Change of venue. jl				
4	67 HASTINGS	MOT. of intent to amend deft;s Mot. for Severance and Memo. of Law filed on 2-1-82. jl				
5	68 HASTINGS:	MOT. For Leav to file completed Memo. of Law exceeding twenty pages. jl				
5	69 HASTINGS:	MEMO. of Law in support of Mot. to Mot. to Quash Ind. and Dis. Proceedings for Lack of Jurisdiction. jl				
8	70 HASTINGS:	SEALED DOCUMENT. jl				
8	71 HASTINGS:	MOT. to suppress Physical Evid. seized from the deft Judicial Chambers and Inner-Office on 10-9-81, and inc. Memo. of Law. jl				
8	72 HASTINGS:	CERT. of Ser. Local 10 C. jl				
8	73 HASTINGS:	AMEND. to Mot. to Dis. Indictment and/or or to issue an Order of Civil contempt against the Justice Dept. jl				
10	74 HASTINGS:	OPPOSITION to Deft's mot. to Dis. due to failure to allege crimes. jl				
10	75 BOTH DEFTS:	AFFIDAVIT of Reid N. Weingarten. jl				
10	76 BORDERS, JR.:	OPPOSITION TO Deft's mot. to Dis. Counts 3 & 4 of the Ind. jl				
10	77 HASTINGS:	OPPOSITION to deft's mot. to dis.Ind. and /or to issue an order of civil contempt against the Justice Dept. jl				
10	78 BORDERS,JR.:	GOVT'S Response to deft Border's Mot. for Change of Venue. jl				
10	79 BOTH DEFTS:	OPPOSITION To Defts' mots. for pre-trial JAMES hearing. jl				
10	80 BOTH DEFTS:	CERT. of Ser. pursuant to Rule 10(G). jl				
10	81 HASTINGS:	SEALED DOCUMENT. jl				
11	82 HASTINGS:	OPPOSITION To deft's mot. to quash Ind. and dis. for lack of jurisdiction. jl				
11	83 HASTINGS:	MOT. for leave to travel. NR. jl				
11	84 HASTINGS:	ORDER(PRP) Mot. to travel is GRANTED. Deft to leave on 2-14-82 from S. Dist. Fla and to ret. to S. Dist. on 2-16-82.(EOD-M-2-12-82) CCAP. jl				
16	85 HASTINGS:	DEFT's objection to co-deft's Mot. for Change of Venue. jl				

CONT.

AO 256A

Interval (see Section III) | Start Date / End Date | Ln. Code | Total Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1982	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (b)	(c)	(d)
FEB 17	86 HASTINGS:	OPPOSITION to Mot to Suppress Physical Evid. jl	921-944		
17	87 HASTINGS:	ORDER(ETG) Deft's mot to quash Ind. and to dis. proceedings for lack of jurisdiction is DENIED.(EOD-M-2-18-82)CCAP. jl	XE-4 945		
17	88 BOTH DEFTS:	MOT. To file Govt's opposition to def. mots. for discovery and production under seal. jl	946		
17	89 HASTINGS:	CERT. of Ser. rule 10-G. jl	537-938		
17	90 HASTINGS:	AMENDED Mot. for severance/relief from prejudicial joinder and Inc. Memo of Law. jl	939-938		
17	91 BOTH DEFTS:	ORDER(ETG) Govt's opposition to def. mots. for disc. and prod. under Seal is hereby sealed and impounded. (EOD-M-2-18-82)CCAP. jl	XE-1 959-		
18	92 BOTH DEFTS:	SEALED DOCUMENT. jl	560		
18	93 HASTINGS:	SEALED DOCUMENT. jl	961		
18	94 BOTH DEFTS:	SEALED DOCUMENT. jl	562		
12	95 HASTINGS:	DEFT'S Reciprical Discovery Inventory No. 1. jl	563-564		
25	96 HASTINGS:	MEMO. & ORDER(ETG) Defts' discovery-related mots are GRANTED; in al other respects mots are DENIED.(EOD-M-2-25-82) CCAP. jl	565-575		
25	97 HASTINGS:	MEMO. and ORDER(ETG) Defts' mot to compel early production of all grand jury test. is DENIED.(EOD-M-2-25-82) jl	XE-1 576-577		
25	98 BORDERS:	MEMO. and ORDER(ETG) deft mot. to dis. Cts 3 & 4 of Ind. is DENIED.(EOD-M-2-25-82)CCAP jl	578-580		
25	99 HASTINGS:	SEALED DOCUMENT. jl	981		
25	100 BOTH DEFTS:	MEMO & (KDER(ETG) mot. to dis. Cts 1,2 of the IND. for failure to allege crimes is DENIED.(EOD-M-2-25-82) jl	582-589		
25	101 HASTINGS:	ORDER(ETG) Mot. to extend the time within which to file additional mots. is DENIED without prejudice.(EOD-M-2-25-82) jl	XE-2 596		
26	102 HASTINGS:	NOTICE of Appeal by deft from order denying defts. mot. to quash indictment & dismiss proceedings for Lack of Jurisdiction entered 2/17/82.(cc: USCA, ct. rep., prob., ct. rep., U.S. Atty:, U.S. Marshal & deft) gc	587 XD		
26	103 HASTINGS:	MOTION to stay pending appeal.(deft) gc	588-589		
MARCH 2	104 HASTINGS:	ORDER(ETG) 1) Mot. to stay proceedings pending appeal is GRANTED. 2) Further proceedings against deft are STAYED pending disposition of his	590		

(CONT)

AO 258A

Interval (per Section III) | Start Date / End Date | Ltr. Code | Total Days

USDC 3 STATES DISTRICT COURT
CRIMINAL DOCKET U.S. vs

BORDERS, WILLIAM & HASTINGS, ALCEE

81-596-CR-ETG
Yr. | Docket No. | Def.

DATE 1982	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a) (b) (c) (d)
MARCH 2	104	ORDER(cont.) from order of 2-17-82.(EOD-M-3-3-82. jl	
2	105	BOTH DEFTS: AFFIDAVIT of Reid H. Weingarten. jl	591-
2	106	BOTH DEFTS: OPPOSITION to Hastings Mot. For Severance. jl	592-605
2	107	HASTINGS: MOT. to Withdraw(as counsel)((Hirschhorn) jl	606-607
2	108	BOTH DEFTS: MOT & ORDER(ETG). Mot. for Cont. is DENIED.(EOD-M-3-3-82) jl	608-611
2	109	BOTH DEFTS: CERT. of Ser. under Local 10 G. jl	612-613
2	110	HASTINGS: ORDER(ETG) Mot. of atty Joel Hirschhorn to withdraw as atty-of record is hereby GRANTED. (EOD-M-3-5-82) CCAP. jl	614-
2	111	HASTINGS: MEMO. OPINION to accompany order DenyingHastings mot. to quash Ind. and Dis. proceedings for Lack of Jurisdiction.(2-25-82-ETG) jl	615-618
8	112	BORDERS: REPORT of Final Pretrial Conference and Order. jl	619-621
8	113	BORDERS: ORDER(ETG) 1: Deft Mot. for Change of venue is GRANTED. 2) Proceedings to be transferred to the Northern Dist. of Georgia. 3) Clerk of Court shall transmit to Clerk of Court of Georgia duplicates of all papers in the proceedings any bail taken. (EOD-M-3-9-82) jl	622
9	114	BORDERS: TRANSMITTAL letter sent to Northern Dist. of Georgia, with cert copies of file. jl	623
MARCH 11	115	BORDERS: TRANSMITTAL letter ret'd from Northern Dist. of Georgia with their case # CR82-75 A. jl	624
22	116	HASTINGS & BORDERS: TRANSC. of hearing before Judge Gignoux on 2/17/82, pgs 1-213. gc	See Vol 9
22	117	HASTINGS & BORDERS: TRANSC.of hearing before Judge Gignoux on 3/2/82, pgs 2-69. gc	See Vol 10
31	—	HASTINGS: RECORD on appeal transmitted to USCA consisting of 3-vols plead. and 3-vols trans. No sealed documents sent. gc	
June 21	118	HASTINGS: ORDER(USCA) deft's mot. to consolidate case 82-5715 & 82-6262 is GRANTED. EOD/M 6/21/82 6/17/82-USCA. rd	625-626
21	119	HASTINGS: ORDER(USCA) deft's writ of mandamus & writ of prohibition is set before oral argument panel pursuant to order of consolidation. EOD/M 6/21/82 6/17/82 rd	627

AO 256A

Interval (per Section III) | Start Date / End Date | Ltr. Code | Total Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1982		PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
June	24	120 HASTINGS: LETTER from USCA, all counsel desiring to appear in this case must sign & ret'n 15-day. from this date(letter dated 6/17/82. rd		668		
JULY	6	121 HASTINGS: MOT. for Permission To Travel. jl		639-640		
	6	122 HASTINGS: MEMO. of Law in support of Mot. for permission to Travel. jl		641-		
	15	123 HASTINGS: OPINION of USCA that appellant may be prosecuted under instant federal indictment. District Court was correct in denying appellant's mot. to quash that indictment. Interlocutory order of district court is affirmed. Petition for writs of mandamus & prohibition is denied. sc		642-647		
	15	124 HASTINGS: MANDATE of USCA that order of district court appealed from is affirmed. (7/12/82) USCA NO. 82-5262 & 82-5715) M-7/15/82 Record to be ret'd. sc		648-649		
	23	—— HASTINGS: RECORD on Appeal returned from USCA - 3 vols pleadings & 3 vols transcripts. ai				
	12	125 HASTINGS: GOVT'S Answer to Mot. for permission to travel. jl		650-651		
OCT	19	126 HASTINGS: MEMORANDUM To Counsel. Status Conf. on 10-27 82 at 9:30 A.M. in Mia. All pretrial mots. still pending to be listed for hearings. Pretrial mots. assigned for hearing during wk. of 11-29-82. Trial to comm. after 1-1-83. (ETC) 10-13-82 jl		652-654		
OCT.	27	127 HASTINGS: MOTION For Disqualification of Trial Judge. HR.____ jl		655-666		
	27	—— HASTINGS: Hearing held on Mot. to Disq. Trial Judge Mot. Oral DENIED. (ETC-10-27-82) jl				
	27	128 HASTINGS: NOTICE of Appearance of Patricia Williams. jl		667		
	27	129 HASTINGS: MEMO. of Law in support of Mot. for Disq. of Judge. jl		658-663		
	27	130 HASTINGS: AFFIDAVIT of Alcee L. Hastings in Support of Mot. For Disq. of Trial Judge. jl		664-671		
	27	131 HASTINGS: Cert. of Good Faith. jl		672-673		
	27	132 HASTINGS: MOTION to Dis. for Selective Prosecution & request For Govt. Records & an Evid. Hearing. HR.__ jl		674-675		
	27	133 HASTINGS: Memo. in supprot of Mot. to Dis. for selective prosecution and request for Govt. record and an evid. hr. jl		676-681		
	27	134 HASTINGS: MOTION to Dis. on Ground of Govt. over involvement and overreaching. HR.___ jl		682		
	27	135 HASTINGS: Memo. in support of mot. to Dis. Ind. on the ground of Govt. overinvolvement & overreaching. jl		683-684		
	27	136 HASTINGS: MOTION To Depose Confidential Informant. HR.___ jl		685-686		
	27	137 HASTINGS: Memo. of Law in support of Mot. to depose Conf. Informant. jl		687-698		

GOVT.

AO 256A

Interval (see Section III) | Rept. Cont. End Date | Ltr. Code | Total Days

* these pleadings were transmitted to U.S. Court of Appeals 11th Circuit on 12/2/82 (cases consolidated) & is still pending.

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

U.S. vs. BORDERS, WILLIAM & HASTINGS, ALCEE

AO 259A

81-596-CR-ETC
Yr. | Docket No. | Def.

DATE		PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
1982						
OCT.	27	138 HASTINGS: MOTION For Transfer Within The District. MR.___		699-700		
		139 HASTINGS: Memo. of Law in support of Mot. for transfer within the district. jl		701-702		
	27	*140 HASTINGS: MOTION to Allow Broadcasting & Televising of Trial via unobtusive Electronic Media & Inc. Memo. of Law. MR. Still pending USCA# 82-6137 jl		Sent up on appeal 11/23/82		
	29	141 HASTINGS: Govt's Mot. for Transfer Within District. MR.___ jl		703-705		
NOV.	4	142 HASTINGS: Report onStatus Conference and Order. ORDER((ETG) Mot.for disqualification of trial Judge is DENIED. Deft's amended severance motion is MOOT. Hearing on Pre-trial Motions set for Nov. 29, at 2:00 P.M. Trial date set for Jan. 10, 1983 at 10:00 A.M..(EOD-M-11-16-82) jl		706-711		
	10	143 HASTINGS: Govt's Suppl. to opposition to defts' Mot. For Pretrial James Hearing. jl		712-722		
	15	144 HASTINGS: Response to Pltf. suppl. to opposition to deft's mot. for pretrial James Hearing. jl		723-726		
	15	145 HASTINGS: Supplemental Memo. of Law. in support of Mot. For Transfer within Dist. jl		736-739		
	15	146 HASTINGS: Supplement Mot. ot depose conf. informant & For In Camer proceeding & prot. Order. MR.___ jl		740-741		
	15	147 HASTINGS: MEMO. Addressing Def. Attorneys. and attach Affidavit of Alcee L. Hastings. jl		742-745		
	17	*148 HASTINGS: GOVT's opposition to deft's Mot. to allow Broadcasting & Televising of Trial. jl				
	17	149 HASTINGS: GOVT's opposition to deft Mot. to Dis. for selective prosecution & request for Govt. Records & evid. Hearing. See above notation jl		746-757		
	17	150 HASTINGS: GOVT'S response to defts' mot to depose confidential informant. jl		758-762		
	19	151 HASTINGS: GOVT'S Memo in Support of Motion For Transfer within Dist. jl		763-917		
	22	*152 HASTINGS: Intervenors' Memo. of law in support of Mot. to intervene and application to allow telecasting, broadcasting, recording, and photography of trial. See above notation jl				
	22	*153 HASTINGS: Stipulation of Deft & News interests for broadcasting & televising of trial. See above notation jl				
	22	*154 HASTINGS: MOTION to intervene & application to allow telecasting, brpadcasting, recording & photography of trial. MR.___ See above notation jl				
	22	*155 HASTINGS: Joinder in Stipulation. See above notation jl				
	22	*156 HASTINGS: MOTION to allow filing of 33 page memo. of law. MR.___ See above notation jl				
	26	157 HASTINGS: (copy) of Mot. For Stay(Filed with the Supreme Court. See above notation jl		915-926		
	26	*158 HASTINGS: MOTION for amendment of Court's Tentative Agenda & Inc. Memo. of Law. MR. See above notation jl				
NOV	30	— HASTINGS: ORDER(ETG) (Written on mots.) Mot to Intervene by News Stations is GRANTED. Mot. & Application to allow telecasting of trial is DENIED 11-30-82. jl				
	30	— HASTINGS: ORDER(ETG) (Written on Mot.) Mot. to allow Broadcasting & televising of trial is DENIED.(11-30-82.) jl				

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Interval | Start Date | Ltr. | Total 9

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

* these pleadings were transmitted to U.S. Court of Appeals for the Eleventh Cir. et on 12/21/82 (no 82-6157) and is still pending

AO 288A

DATE 1982		PROCEEDINGS (continued) (Document No.) ORDER(ETG)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
NOV	30	——HASTINGS: Mot. to Dis. for selective Prosecution & req. for Govt. Records is DENIED.(Written on Mot.)(11-30-82) jl				
	30	—— HASTINGS: ORDER(ETG) (written on Mot.) Mot. for pre-trial James Hring. is DENIED.(11-30-82) jl				
DEC.	1	—— HASTINGS: ORDER(ETG) (Written on Mot.) Mot. for Transfer within Dist. is DENIED) (12-1-82) jl				
	1	——HASTINGS: ORDER(ETG) (Written on Mot.) Govt's mot. for transf within Dist. is DENIED(12-1-82) jl				
	1	—— HASTINGS: MIN. of Court. 11-29: Mot. for Stay filed in open Ct. DENIED; Mot. for Amend. of Court tentative Agenda is DENIED, Mot. suppress on elect. surveillance is DENIED. Mot. to Dism. Ct. 2 of Ind. is DENIED; Mot. dispose conf. informant is DENIED. Mot. tranf. case to Ft. Laud is DENIED Mot. transfer case to W. Palm Bch. is DENIED. Mot. to suppress physical evid seized from deft chambers is MOOT. 11-30 Mot. to intervene and allow telcasting GRANTED as to allowing to intervene Mot. to telecast is DENIED. Mot. to allow broadcasting & T.V. of trial is DENIED. Mot. pre-trial James hrg. is DENIED. Mot. to dism for selective pros. is DENIED. Mot. as amend, to dism. indict and /or issue order of civil contempt against Just.Dept. Ruling taken under ad visement. 12-1 Trial set 1-10-82 at 10:00 A.M. trial to be held in Mia. jl				
NOV	30	X159 HASTINGS: MOTION of Andy Rosenblatt & Miami Herald to Quash Subpoena for Test. At. pre-trial Supression Hearing. NR___ See above notation jl				
Dec	1	X160 HASTINGS: NOTICE of Appeal by Post-Newsweek Stations, Inc., Wometco Enterprises, Inc., Outlet Broadcasting, Inc., Community Television Foundation of South Florida, Inc., The Miami Herald Publishing Co, Radio-Television News Directors Assoc. & National Assoc. of Broadcasters, intervenors from order 11/30/82 denying their application.(cc USCA, ct. rep., all counsel of record) See above notation gc				
DEC	6	161 Hastings; ORDER(ETG) Mot. to depose conf. informant is DENIED.(EOD-M-12-8-82) jl		939		
	6	162 HASTINGS: ORDER(ETG) Mot. to dism. Ct. II of IND. for failure to allege a Crime is DENIED. (EOD-M-12-8-82) jl		940		
	6	163 HASTINGS: ORDER(ETG) Mot. to suppress Evid. Obtained from Elect. Surveillance is DENIED.(EOD-M-12-8-82) jl		941		
	6	164 HASTINGS: Report of Final Pre-Trial Conf. & Order. ETG 12-2-82 jl		942-946		
	6	165 HASTINGS: MOTION for leave of Court for Deft to join as co-counsel. NR___ jl		947-948		
	6	166 HASTINGS: MEMO. of Law in support of Mot. req. Court to issued Order for app. of William C. Dredge,for interview prior to his app. as a Def. Wit. jl		949-950		
	6	167 HASTINGS: MOTION requesting Court ot issue Order for App of William C. Dredge, For Interview prior to his App. as a Def. Wit. NR.___ jl		951-952		

Interval (per Section III) | Start Date / End Date | Ltr. Code | Total Days

this transcript was transmitted to U.S. Court of Appeals of the Eleventh Circuit on 12/21/82.

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U. S. vs BORDERS & HASTINGS (82-6137)

AO 256A

81-596-CR-ETG
Yr. | Docket No. | Def.

DATE 1982		PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
DEC	6	168 HASTINGS: Memo. of Law in support of Def. counsel's mot. for leave of court for deft to join def. as co-counsel. jl		953-956		
	6	169 HASTINGS: MOTION for reconsideration of Mot. to Dism. For Selective prosecution. NR.__ jl		957-959		
	6	170 HASTINGS: Memo. of Law in support of Mot. for reconsideration of Mot. to Dism. for selective prosecution. jl		960-965		
Nov.	11	171 SEALED DOCUMENT. jl				
DEC.	10	172 GOVT'S opposition to Mot. requesting Ct. to Issue Order For the appearance of William C. Dredge for Interview. mb		966		
Dec	21	173 HASTINGS: TRANSCRIPT of proceedings on 11/30/82, pgs 2-58. See above motion Sent up on appeal (case 82-6137) jl		967-977		
	21	— RECORD on appeal transmitted to USCA.(Only pleadings pertaining to News Media) gc				
	22	174 HASTINGS: MEMO. to Counsel. Govt to response to deft's mot. for reconsideration of mot. to dism. for sel. prosecution with supporting memo. by 12-17. After rec. govt's response, Ct. will either rule on mot. basis on written submission, or assign mot. for oral argument on 1-10- ETG. gc		978		
	28	175 HASTINGS: MEMO. & ORDER(ETG) mot. to dism. Ind. and/or to issue an order of civil contempt against the Justice Dept. is in all respects DENIED.(EOD-M-12-28-82) jl		979-986		
DEC	29	176 HASTINGS: SEAL DOCUMENT. jl		987		
	29	177 HASTINGS: ORDER(ETG) Mot. to join as co-counsel is GRANTED,subject to the foregoing conditions and std. set forth in memo of law submitted by def. counsel in support of said mot.(EOD-M-12-17-82) jl		988-989		
1983						
JAN	3	178 HASTINGS: MEMO. to Counsel. (ETG-12-21-82) jl		990-		
	3	179 HASTINGS: DEFT'S response to Sunbeam Television Corp's Mot. to copy audio Tape recordings. jl		991-992		
	3	180 HASTINGS: SEALED DOCUMENT. jl		993-1004		
	3	181 HASTINGS: DEFT's proposed Voir Dire Questions. JL		1005-1013		
	3	182 HASTINGS: DEFT' s Exhibit List. jl		1014-1018		
	3	183 HASTINGS: DEFT's Trial Brief. jl		1019-1039		
	3	184 HASTINGS: DEFT'S proposed Jury Instructions. jl		1040-1068		
	3	185 HASTINGS: OPPOSITION to deft's Mot. for reconsideration of deft's Mot. to dis. for selective prosecution. jl		1069-1071		
	4	186 HASTINGS: MEMO & ORDER(ETG) Mot requesting Court to order appearance of William C. Dredge for an interview prior to trial is DENIED.(EOD-M-1-4-83) jl		1072-1073		
	4	187 HASTINGS: MEMO & ORDER(ETG) Mot. for reconsideration of deft's mot. to dism. for selective prosecution is DENIED.(EOD-M-1-4-83) jl		1074-1075		
	6	188 HASTINGS: MOTION To Transfer.NR.___ jl		1076-1080		
	6	189 HASTINGS: MOTION for issuance of a mat. Witness Warrant and Inc. Memo of Law. NR.___ jl		1081-1086		
	7	190 HASTINGS: EMERGENCY Application for Stay Pending Review by United States Supreme Court JL		1087-1094		

CONT.

Interval | Start Date | Ltr. | Total

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET
AO 256A

DATE	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
1983						
JAN 7	191	HASTINGS: REQUEST for Oral Argument. jl		1095-1096		
11	192	HASTINGS: LETTER from Supreme Court re: Application for stay addressed to Justice Brennan is DENIED. jl		1097-		
10	193	HASTINGS: SUPPLEMENTAL Witness List. jl		1098-1099		
10	194	HASTINGS: ORDER(ETG) 1) Supoeana's Mot. to copy Audio Tape recordings is GRANTED with respect to audio tapes admitted into evid. & played in open court. (EOD-M-1-11-83) jl		1100		
10	195	HASTINGS: MIN. Hring on Mots. Mot. to transfer -withdrawn Renewed mot. quash Ind & Dism proceadings-DENIED. Mot. for stay pending review by U.S. Supreme Ct. -DENIED. Request for Oral Argument. -GRANTED. Mot. to copy audio tape recordings. -GRANTED. Govt's mot. in limine-Instant Mot. -DENIED. jl		1101		
11	196	HASTINGS: ORDER(ETG) jury Sect. of U.S. Court rel. to Reid H. Weingarten & Patricia Williams, Esq. copies of the A.O. -229 and copies of jury questionnaires that have been filed in this cause. Counsel to return to Clerk copies upon completion of selection of jury in cause. (EOD-M-1-11-83) jl		1102-		
11	197	HASTINGS: RENEWED mot. to Quash INd. and Dism. proceading and Mot. to reconsider Order denying original Mot. to Quash Ind. & Dism proceadings. Renewed Mot. DENIED, ETG -1-11-83. jl		1103-1105		
11	198	HASTINGS: ADDENDUM to Supplemental Wit. List. jl		1106-1107		
18	199	HASTINGS: MIN. of Court. Govt's request Voir Dire, Deft requested Voir Dire. Voir Dire begins. Jury selection cont. to 1-14- at 9:00 A.M. jl		1108		
18	200	HASTINGS: MIN. of Court. Jury Selection cont. to 1-17-83 at 9:00 A.M. jl		1109		
19	201	HASTINGS: MOTION to Dism. (Mot. DENIED)(ETG-1-18-83) jl		1110-1111		
19	202	HASTINGS: MEMO. of Law. jl		1112-1119		
19	203	HASTINGS: MIN. Hearing on Mot.s Mot. to Dism. DENIED. Mot. for issuance of material wit. warr. of William C. Dredge. is DENIED w/out prejudice. Mot. to suppress physical evid. taken from Hastings's Chambers is DENIED. jl		1120		
18	204	HASTINGS: MIN. of Court. Jury selection cont. to 1-17-83.(1-14-83) jl		1120A		
19	205	HASTINGS: MIN. of Court. Jury selection cont. to 1-18-83 at 8:30 A.M. jl		1121		
19	206	HASTINGS: MIN. of Court. Jury Impaneled, Jury Trial cont. to 1-19-83. at 9:30 A.M. jl		1122-1123		
19	207	HASTINGS: TRANSCRIPT of Excerpt from hearing on Various Mots. Containing Test. of William J. Murphy. pages 1-29 jl		See Vol II 1124-1125		
20	208	HASTINGS: MIN. of Trial. Jury Jury Trial begins,Jury Trial cont. to 1-20-83 at 9:30. jl		1126		
20	209	HASTINGS: MIN. of Trial. Jury Trial held and cont. to 1-21-83 at 9:30 A.M. jl		1127		
20	210	HASTINGS: ORDER(ETG) Jury in the above-entitled case is sequestered for the length of the trial(EOD-M-1-21-83) jl				

CONT

Interval (per Section 11) | Start Date / End Date | Ltr. Code | Total Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET U.S. vs HASTING, ALCEE

81-596-CR-ETG
Yr. | Docket No. | Def.

DATE 1983	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
Jan 21	211	HASTINGS: LETTER from USCA dated 1/17/83 noting ceritorari denied by Supreme Court. gc		1135		
24	212	HASTINGS: MIN. of Trial. Jury trial cont. ton 1-24-83 at 9:30 A.M. jl		1139-1130		
25	213	HASTINGS: MIN. of Trial. Jury Trial cont. to 1-25-83 at 9:30 A.M. jl		1131-1136		
25	214	HASTINGS: MIN. of Trial. Jury trial cont. to 1-26-83 at 9:30 A.M. jl		1133-1134		
25	215	HASTINGS: MEMO. in Support of Mot. in Limine. jl		1135-1144		
27	216	HASTINGS: MIN. of Trial Jury trial cont. to 1-27-83 at 9:30 A.M. jl		1145-1146		
31	217	HASTINGS: MIN. of Trial. Jury trial cont. to 1-27-83 at 9:30 A.M. jl		1147-1147		
31	218	HASTINGS: MIN. of Trial. Jury Trial held, Cont. to 1-31-83. jl		1149-1150		
31	219	HASTINGS: ORDER(ETG) Jurors are auth. reasonable expenditures for purchase and consumption of alcoholic beverages and social functions as deemed customary by U.S. Marshal.(EOD-M-1-31-83) jl		1151		
FEB 1	220	HASTINGS: MIN. of Trial. Trial cont. ton 2-2-83 at 9:00 A.M. jl		1152-1153		
1	221	HASTINGS: MOTION For Judgmetn of Acq. and Inc. Memo. of Law In Support. jl		1154-1158		
1	222	HASTINGS: SEALED DOCUMENT. jl		1159		
1	223	HASTINGS: SEALED DOCUMENT. JL		1160		
1	224	HASTINGS: SEALED DOCUMENT. jl		1161		
2	225	HASTINGS: MOTION for leave to file brief Amicus Curiae Mot. DENIED 2-2-83) jl		1162-1163		
3	226	HASTINGS: SEALED DOCUMENT. jl		1164		
4	227	HASTINGS: VERDICT. We the Jury, find the daft. Not Guilty as to Ct. I. Not Guilty as to Ct. 2. JL		1165		
17	228	HASTINGS: MOTION for return or Exhibits and Inc. Memo. of Law. jl		1166-1167		
2	229	HASTINGS: MOTION for leave to file brief amicus curiae. (on 2/2/83 Mot. DENIED.) jl		1168-1234		
26	230	HASTINGS: BRIEF amicus curiae. mk		1235-1240		
26	231	HASTINGS: TRANSC. of trial on 1/19/83 @ 9:30 A.M. before Hon.ETG. Pgs. 1 thru 274. (Volume 1) mk		See Vol 12		
26	232	HASTINGS: TRANSC. of trial on 1/20/83 @ 9:30 A.M. before Hon.ETG. Pgs. 275 thru 527.(Volume 2) mk		See Vol 13		
26	233	HASTINGS: TRANSC. of trial on 1/21/83 @ 9:30 A.M. before Hon.ETG. Pgs.528 thru 671. (Volume 3). mk		See Vol 14		
26	234	HASTINGS: TRANSC. of trial on 1/22/83 @ 9:30 A.M. before Hon.ETG. Pgs.672 thru 747. (Volume 4). mk		See Vol 15		
26	235	HASTINGS: TRANSC. of trial on 1/24/83 @ 9:32 A.M. before Hon.ETG. Pgs.748 thru 1000. (Volume 5). mk		See Vol 16		
26	236	HASTINGS: TRANSC. of trial on 1/25/83 @ 9:30 A.M. before Hon.ETG. Pgs 1001 thru 1278. (Volume 6). mk		See Vol 17		
26	237	HASTINGS: TRANSC. of trial on 1/26/83 @ 9:02 A.M. before Hon.ETG. Pgs 1279 thru 1553. (Volume 7). mk		See Vol 18		
26	238	HASTINGS: TRANSC. of trial on 1/27/83 @ 9:40 A.M. before Hon.ETG. Pgs 1554 thru 1764. (Volume 8). mk		See Vol 19		

(CONT):

AO 256A

Improved (New Revision 11) | Start Over (New Page) | Ltr. | Total Cumul Days

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE 1983	(Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY (a)	(b)	(c)	(d)
Feb. 26	239	HASTINGS: TRANSC. of trial on 1/28/83 @ 9:30 A.M. before Hon. ETG. Pgs. 1765 thru 1996. (Volume 9) mb		See Vol 20		
26	240	HASTINGS: TRANSC. of trial on 1/31/83 @ 9:30 A.M. before Hon. ETG. Pgs. 1997 thru 2264. (Volume 10). mb		See Vol 21		
26	241	HASTINGS: TRANSC. of trial on 2/1/83 @ 9:30 A.M. before Hon.ETG. Pgs. 2265 thru 2486. (Volume 11) mb		See Vol 22		
26	242	HASTINGS: TRANSC. of trial on 2/2/83 @ 8:50 A.M. before Hon.ETG. Pgs. 2487 thru 2773. (Volume 12). mb		See Vol 23		
Mar 22	243	LETTER from U.S.C.A. denying centiorari by Supreme Crt. sr		1241		
FEB 16	244	HASTINGS: ORDER(ETG) This case being closed the mot. for leave to file, as amicus curiae in case is DENIED. jl		1242		
MAR 29	245	HASTINGS: ORDER(ETG) Mot. for return of exhibits is DENIED. see letter Chief Judge Godbold to clerk 3-2-83. jl		1243-1246		
29	246	HASTINGS: TRANSCRIPT of proceedings occurring after the case had been initially submitted to the jury but prior to vol. # 13. jl		See Vol 24		
29	247	HASTINGS: TRANSCRIPT of proceedings occurring after the case hade been initially submitted to the Jury and ret. of the Jury Verdict. jl		See Vol 25		
* Feb 02	248	HASTINGS: MIN. of Trial. Trial cont. to 2/1/83. at 9:30. sr		1246-1247		

Glenn J. Caddell
Clerk
4/5/83

AO 256A

Interval (per Section III) | Start Date / End Date | Ltr. Code | Total Days

RECEIVED & FILED IN OPEN COURT
ON 7-19-82 JF
M RA
Joseph P. Bogart, Clerk
United States District Court
Southern District of Florida PL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA)

v.

ALCEE L. HASTINGS

Defendant

CASE NO. 81-596-Cr-ETG

United States Senate
EVIDENTIARY HEARINGS
STANDING DISCOVERY ORDER
HOUSE MANAGERS' EXHIBIT 149

Good cause appearing, it is

ORDERED AND ADJUDGED that on or before 10 days the parties shall confer and the following shall be accomplished.

A. The government shall permit the defendant to inspect and copy the following items or copies thereof, or supply copies thereof which are within the possession, custody or control of the government, the existence of which is known or by the exercise of due diligence may become known to the government.

(1) Written or recorded statements made by the defendant.

(2) The substance of any oral statement made by the defendant before or after his arrest in response to interrogation by a then known to be government agent which the government intends to offer in evidence at trial.

(3) Recorded grand jury testimony of the defendant relating to the offenses charged.

(4) The defendant's F.B.I. arrest record.

(5) Books, papers, documents, photographs, tangible objects, buildings or places which the government intends to use as evidence at trial to prove its case in chief, or were obtained from or belong to the defendant.

(6) Results or reports of physical or mental examinations, and of scientific tests or experiments, made in connection with this case.

EXHIBIT 149 HOUSE

B. The defendant shall permit the government to inspect and copy the following items or copies thereof, or supply copies thereof which are within the possession, custody or control of the defendant, the existence of which is known or by the exercise of due diligence may become known to the defendant.

Ic 417

RECD 1-19-82 | TO JUDGE 1-20-82
BY | 17

(1) Books, papers, documents, photographs or tangible objects which the defendant intends to introduce as evidence in chief at the trial.

(2) Any results or reports of physical or mental examinations and of scientific tests of experiments made in connection with this case which the defendant intends to introduce as evidence in chief at trial or which were prepared by a defense witness who will testify concerning the contents thereof.

(3) If a defendant intends to rely upon the defense of insanity at the time of the alleged crime or intends to introduce expert testimony relating to a mental disease, defect or other condition bearing upon the issue of whether he had the mental state required for the offense charged, he shall give written notice thereof to the government.

C. The government shall reveal to the defendant and permit inspection and copying of all information and material known to the government which may be favorable to the defendant on the issues of guilt or punishment within the scope of Brady v. Maryland, 373 U.S. 83 (1963).

D. The government shall disclose to the defendant the existence and substance of any payments, promises of immunity, leniency, or preferential treatment, made to prospective government witnesses, within the scope of United States v. Giglio, 405 U.S. 150 (1972) and Napue v. Illinois, 360 U.S. 264 (1959).

E. The government shall supply the defendant with a record of prior convictions of any alleged co-conspirator, accomplice or informant who will testify for the government at trial.

F. The government shall state whether the defendant was the subject of any electronic surveillance, and, if so, shall set forth in detail the circumstances thereof.

G. The government shall have transcribed the grand jury testimony of all witnesses who will testify for the government at the trial of this cause, preparatory to a timely motion for discovery.

H. The parties shall make every possible effort in good faith to stipulate to all facts or points of law the truth and existence of which is not contested and the early resolution of which will expedite the trial.

I. The parties shall collaborate in preparation of a written statement to be signed by counsel for each side, generally describing all discovery material exchanged, and setting forth all stipulations entered into at the conference. No stipulations made by defense counsel at the conference shall be used

against the defendant unless the stipulations are reduced to writing and signed by the defendant and his counsel. This statement, including any stipulations signed by the defendant and his counsel, shall be filed with the Court within five days following the conference.

It shall be the continuing duty of counsel for both sides to immediately reveal to opposing counsel all newly discovered information or other material within the scope of this Standing Order.

Upon a sufficient showing the Court may at any time upon motion properly filed, order that the discovery or inspection provided for by this Standing Order be denied, restricted or deferred, or make such other order as is appropriate. It is expected by the Court, however, that counsel for both sides shall make every good faith effort to comply with the letter and spirit of this Standing Order.

All motions concerning matters not covered by this Standing Order must be filed pursuant to Local Rule 10G, ~~within ~~ ~~days of this order~~. by February 1, 1982 Motions to suppress by February 8, 1982

DONE AND ORDERED at Miami, Florida, this 13 day of January, 1982.

Edward B. Clark
UNITED STATES DISTRICT JUDGE
Signing by designation

cc: United States Attorney

RECEIVED & FILED IN OPEN COURT
ON 1-19-82 AT
Miami FLA
Joseph Lengert, Clerk
United States District Court
Southern District of Florida

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,
Plaintiff,
v.
WILLIAM A. BORDERS, JR.
and ALCEE L. HASTINGS,
Defendants.

CRIMINAL NO. 81-596-CR

Violations of 18 U.S.C. 371 (conspiracy); 18 U.S.C. 1503 (obstruction of justice); 18 U.S.C. 2 (abetting); 18 U.S.C. 1952 (Travel Act)

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 150

DISCOVERY INVENTORY

1. File containing travel records from Judge Hastings' chambers;
2. One Seminole - Miami - telephone message/record book from Judge Hastings' chambers;
3. One Ampad - telephone message/record book dated July 3, 1981 - September 14, 1981, from the law offices of William A. Borders;
4. Mr. Borders' bank records from the Independent Federal Savings & Loan, Washington, D.C.;
5. Mr. Borders' bank records from the National Bank of Washington, Washington, D.C.;
6. Judge Hastings' bank records from the Landmark First National Bank of Fort Lauderdale;
7. Judge Hastings' account records from Visa;
8. Judge Hastings' account records from Carte Blanche;
9. Judge Hastings' account records from American Express;
10. Judge Hastings' account records from Diners Club;
11. Records from Eastern Air Lines relating to travel of Mr. Borders on July 21, 1981, August 21, 1981, September 11-12, 1981, and September 18-19, 1981;
12. Records from Eastern Air Lines relating to travel of Judge Hastings on June 17-18, 1981, July 17-20, 1981, September 11-14, 1981, and October 7-9, 1981;

EXHIBIT 150 HOUSE

IC 418

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BY | 18

13. Records from Delta Airlines relating to travel of Judge Hastings on October 9, 1981;

14. Records from American Airlines relating to travel of Mr. Borders from September 15-18, 1981;

15. Records from U.S. Air relating to travel of Judge Hastings on September 14, 1981;

16. Records from Eastern Air Lines relating to the operation and passenger lists of flights on September 11, 12, and 14, 1981, and October 9, 1981;

17. Records from the International Hotel in Miami, Florida, relating to stays by Mr. Borders on September 12 and September 19, 1981;

18. Records from the Holiday Inn in Miami, Florida, relating to a stay by Mr. Borders on August 21-22, 1981;

19. Records from the Riviera Hotel in Las Vegas, Nevada, relating to a stay by Mr. Borders from September 15-18, 1981;

20. Records from the L'enfant Plaza Hotel in Washington, D.C., relating to a stay by Mr. Borders and Judge Hastings on October 9, 1981;

21. Records from the Sheraton Hotel in Washington, D.C., relating to a stay by Judge Hastings from September 11-13, 1981;

22. Records from the Mayflower Hotel in Washington, D.C., relating to a stay by Judge Hastings from July 17-19, 1981;

23. Billing records from the C & P Telephone Company relating to telephone number 202-398-6321, dated June 1, 1981 through November 1, 1981;

24. Billing records from the C & P Telephone Company relating to telephone number 202-387-1100, dated June 16, 1981 through November 16, 1981;

25. Billing records from the C & P Telephone Company relating to telephone number 202-659-4030, dated July 22, 1981 through September 22, 1981;
26. M.C.I. billing records for account number V-52751 from June 1, 1981 through November 1, 1981;
27. Billing records from Southern Bell Telephone and Telegraph Company of Miami relating to telephone numbers 305-350-4279, 305-350-4280, 305-350-4289, and 305-350-4228, from February 24, 1981 through October 19, 1981;
28. Billing records from Southern Bell Telephone and Telegraph Company of Fort Lauderdale relating to telephone number 305-731-8176, from May 26, 1981 through October 26, 1981;
29. Billing records from Southern Bell Telephone and Telegraph Company of Fort Lauderdale relating to telephone number 305-486-0733, from May 16, 1981 through October 10, 1981;
30. Billing records from Southern Bell Telephone and Telegraph Company of Fort Lauderdale relating to telephone number 305-733-1697, from May 19, 1981 through October 19, 1981;
31. The reservation sheet from the Galleries Restaurant at the Fontainebleau Hotel, Miami Beach, Florida, for September 16 and 17, 1981;
32. A three-piece suit and a valet service ticket from the L'enfant Plaza Hotel, Washington, D.C.;
33. Records from the Housing Finance Corporation of Fort Lauderdale, Florida;

4

34. A business card of Mr. Borders.

U.S. Department of Justice

United States Senate

EVIDENTIARY HEARINGS
Washington, D.C. 20510

HOUSE MANAGERS' EXHIBIT 151

IN OPEN COURT
1-19-89
M. [illegible] M.A.
[illegible] Clerk
[illegible] District Court
[illegible] District of Florida

Joel Hirschhorn, Esq.
742 Northwest 12th Avenue
Miami, Florida 33136

Dear Mr. Hirschhorn:

Pursuant to Rule 16, Federal Rules of Criminal Procedure, and the Standing Discovery Order of the United States District Court of the Southern District of Florida, we herein provide you with the following materials:

1. A copy of an FBI FD-302 of an interview of Judge Hastings, dated October 9, 1981;

2. Copies of the Applications and Orders of the Court-authorized intercepts of October 1 and October 2, 1981;

3. Copies of tapes more specifically described as follows:

   a. A conversation between Mr. Borders and H. Paul Rico, dated September 12, 1981;

   b. A conversation between Mr. Borders and H. Paul Rico, dated September 19, 1981;

   c. A telephone call between Mr. Borders and H. Paul Rico, dated October 2, 1981;

   d. and e. Composite tapes of all conversations intercepted in this case pursuant to Court-authorized wiretaps that were not minimized and relate to this prosecution;

   f. A conversation between Mr. Borders and H. Paul Rico, dated October 9, 1981; and

EXHIBIT 151 HOUSE

[redacted]

RECD	TO JUDGE
1-17-82	1-20-82
BY 82	19

IC 419

g. A video tape of part of a meeting between Mr. Borders and H. Paul Rico dated ~~October~~ September 19, 1981.

(Please be advised that for the conversations involving Mr. Rico on the composite tapes described in paragraphs d and e there are also consensual, back-up tapes made by Mr. Rico)

4. Copies of transcripts of tapes referred to in the previous paragraph. (Please be advised that these transcripts are only work copies that we are providing you to assist you in your trial preparation; we specifically reserve the right to perfect these transcripts for trial. We welcome any and all suggestions from you that will assist us in making the transcripts as accurate as possible.)

5. During the course of this investigation, we have collected and reviewed the following materials:

a. Calendars, message pads, and travel records from Judge Hastings' chambers;

b. Calendars and message pads from the law offices of William A. Borders;

c. The Court file in the case captioned U.S. v. Romano, 78-364-CR-ALH;

d. Bank records including the following:

(1) Mr. Borders' account records from the Independent Federal Savings & Loan, and the National Bank of Washington;

(2) Judge Hastings' account records from the Landmark First National Bank of Fort Lauderdale, and

(3) Judge Hastings' account records from Visa, Carte Blanche, American Express, and Diners Club;

e. Airline records from Eastern Air Lines, Delta Airlines, American Airlines, and U.S. Air, documenting air travel by Mr. Borders and Judge Hastings;

f. Hotel records from L'Enfant Plaza, The Sheraton, and The Mayflower Hotels in Washington, D.C.; the Holiday Inn and International Hotels in Miami, Florida; and the Riviera Hotel in Las Vegas, Nevada;

g. Telephone records from telephone companies in Washington, D.C.; Miami, Florida; Fort Lauderdale, Florida; and from the M.C.I. Telecommunications Corporation;

h. Records from the Galleries Restaurant at the Fontainebleau Hotel, Miami Beach, Florida;

i. A suit retrieved from the L'Enfant Plaza Hotel, Washington, D.C.;

j. Records from the Housing Finance Corporation of Fort Lauderdale, Inc.; and

k. A business card of Mr. Borders.

You are invited to visit the FBI Office in Miami, Florida, for the purpose of inspecting any of these records that we have retained. Please be advised that many of the records described in Paragraphs 5a, 5b, and 5c have been returned to Judge Hastings' chambers and Mr. Borders' law office to minimize disruption of their normal business. You will be given access to a Xerox machine at the office and will be able to copy any of these records as you see fit. Some of these records are voluminous, and it is our hope that your use of the Xerox machine will be reasonable. No matter what you choose to copy, we will provide you with copies of what we intend to introduce in our case in chief from this material well before trial.

Finally, we represent as follows:

1. To our knowledge, neither defendant has a criminal record;

2. To our knowledge, we are in possession of no material or information that could be categorized as Brady material; and

3. We have no present intention of having any informant testify for us at trial; should our intent change, we will immediately comply with Rule E of the Standing Discovery Order.

After you have had an opportunity to review our materials and we have reviewed the materials you will present to us pursuant to Rule B of the Standing Discovery Order, we hope to meet with you to discuss stipulations that will help to expedite the trial.

Thank you for your cooperation.

Sincerely,

Reid H. Weingarten

Reid H. Weingarten, Attorney
U.S. Department of Justice
Public Integrity Section
Criminal Division
Telephone (202) 724-7099

Enclosures

1/19/82

U.S. Department of Justice

Washington, D.C. 20530

RECEIVED & FILED IN OPEN COURT
ON 1-19-82 AT
Mauser FLA
Joseph F. Bryant, Clerk
United States District Court
Southern District of Florida PL

H. T. Smith, Esq.
1 Biscayne Tower
Miami, Florida

Dear Mr. Smith:

Pursuant to Rule 16, Federal Rules of Criminal Procedure, and the Standing Discovery Order of the United States District Court of the Southern District of Florida, we herein provide you with the following materials:

1. A copy of an FBI FD-302 of an interview of Judge Hastings, dated October 9, 1981;

2. Copies of the Applications and Orders of the Court-authorized intercepts of October 1 and October 2, 1981;

3. Copies of tapes more specifically described as follows:

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   b. A conversation between Mr. Borders and H. Paul Rico, dated September 19, 1981;

   c. A telephone call between Mr. Borders and H. Paul Rico, dated October 2, 1981;

   d. and e. Composite tapes of all conversations intercepted in this case pursuant to Court-authorized wiretaps that were not minimized and relate to this prosecution;

   f. A conversation between Mr. Borders and H. Paul Rico, dated October 9, 1981; and

RECD	TO
1-19-82	1-20-82
BY	

42

g. A video tape of part of a meeting between Mr. Borders and H. Paul Rico dated September ~~October~~ 9, 1981.

(Please be advised that for the conversations involvin Mr. Rico on the composite tapes described in paragraphs d and e there are also consensual, back-up tapes made by Mr. Rico)

4. Copies of transcripts of tapes referred to in the previous paragraph. (Please be advised that these transcripts are only work copies that we are providing you to assist you in your trial preparation; we specifically reserve the right to perfect these transcripts for trial. We welcome any and all suggestions from you that will assist us in making the transcripts as accurate as possible.)

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c. The Court file in the case captioned U.S. v. Romano, 78-364-CR-ALH;

d. Bank records including the following:

(1) Mr. Borders' account records from the Independent Federal Savings & Loan, and the National Bank of Washington;

(2) Judge Hastings' account records from the Landmark First National Bank of Fort Lauderdale, and

(3) Judge Hastings' account records from Visa, Carte Blanche, American Express, and Diners Club;

e. Airline records from Eastern Air Lines, Delta Airlines, American Airlines, and U.S. Air, documenting air travel by Mr. Borders and Judge Hastings;

f. Hotel records from L'Enfant Plaza, The Sheraton, and The Mayflower Hotels in Washington, D.C.; the Holiday Inn and International Hotels in Miami, Florida; and the Riviera Hotel in Las Vegas, Nevada;

g. Telephone records from telephone companies in Washington, D.C.; Miami, Florida; Fort Lauderdale, Florida; and from the M.C.I. Telecommunications Corporation;

h. Records from the Galleries Restaurant at the Fontainebleau Hotel, Miami Beach, Florida;

i. A suit retrieved from the L'Enfant Plaza Hotel, Washington, D.C.;

j. Records from the Housing Finance Corporation of Fort Lauderdale, Inc.; and

k. A business card of Mr. Borders.

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2. To our knowledge, we are in possession of no material or information that could be categorized as Brady material; and

3. We have no present intention of having any informant testify for us at trial; should our intent change, we will immediately comply with Rule E of the Standing Discovery Order.

After you have had an opportunity to review our materials and we have reviewed the materials you will present to us pursuant to Rule B of the Standing Discovery Order, we hope to meet with you to discuss stipulations that will help to expedite the trial.

Thank you for your cooperation.

Sincerely,

Reid H Weingarten

Reid H. Weingarten, Attorney
U.S. Department of Justice
Public Integrity Section
Criminal Division
Telephone (202) 724-7099

Enclosures

1-17-82
Rec'd.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 81-596-Cr-ETG

UNITED STATES OF AMERICA,

Plaintiff,

vs

ALCEE L. HASTINGS,

Defendant.
_____/

DEFENDANT'S RECIPROCAL DISCOVERY INVENTORY NO. 1

COMES NOW the Defendant, ALCEE L. HASTINGS, pursuant to the Court's Standing Discovery Order, and files this his Reciprocal Discovery Inventory No. 1 in the above styled matter:

1. Miscellaneous documents relative to Landmark First National Bank of Ft. Lauderdale loan dated June 16, 1981.

2. Miscellaneous documents from the Internal Revenue Service relative to Freedom of Information Act request.

3. Miscellaneous documents from Landmark First National Bank of Ft. Lauderdale relative Alcee L. Hastings, account number 90-5420859 (checking and loan matters).

4. One file labeled "Juvenile Officers Seminar, Harrisburg, PA.".

5. Miscellaneous documents relative to Albany State College Program of October 8, 1981.

6. Thirty-two (32) separate folders containing financial information covering November 1979 through December 1981.

7. One folder containing documents, notes and drafts relative to Romano Order of October 6, 1981.

8. One man's leather purse (to be viewed only).

Respectfully submitted,

WILLIAM WATERMAN, ESQ.
Co-Counsel for Defendant
140 S. Saginaw Street
Suite 700
Pontiac, Michigan 48058
Tel: (313) 858-2434

JOEL HIRSCHHORN, P.A.
Attorneys for Defendant
742 N. W. 12th Avenue
Miami, Florida 33136

Tel: (305) 324-5320

By: JOEL HIRSCHHORN

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 152

EXHIBIT
152
HOUSE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was this 16th day of February, 1982, hand delivered to the following:

ROBERT RICHTER, ESQ.
Public Integrity Section
Criminal Division
Department of Justice
P. O. Box 50168
F Street Station, N. W.
Washington, D. C. 2004-0168

and a copy was mailed this 16th day of February, 1982 to the following:

JOHN SHORTER, ESQ.
508 Fifth Street, N. W.
Washington, D. C. 20001

JOEL HIRSCHHORN

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 153

DEFENDANT'S SUPPLEMENTAL DISCOVERY INVENTORY

Pursuant to Rule 16 of the Federal Rules of Criminal Procedure, Defendant provides the following items of evidence in reciprocal discovery:

1. Sonesta Beach Hotel Registration dated 10-4-81.
2. Copy of handwritten telephone numbers of Bill J. Murphy.
3. U.S. Air passenger ticket dated September 14.
4. Package of information regarding Hemphill Pride from Shirley Pride to Judge Hastings dated October 1, 1980.
5. Letter from Charles E. Clark to Hemphill Pride dated April 25, 1978.
6. Letter from J. LeVonne Chambers to Hemphill Pride dated July 15, 1980.
7. Petition for Release from Judgment and Sentence Imposed in Violation of 5th Amendment to the Constitution of the United States.
8. Copy of letter from Hemphill Pride to Judge Hastings dated July 18, 1980.
9. Copy of In the Matter of Hemphill P. Pride, 278 S.E. 2d 774.
10. Telephone records for telephone number 733-1697.
11. Invitation to Gala Celebration Dinner Cruise.
12. Program for National Convention Banquet of the 369th Veterans Association, Orlando, Florida, October 11, 1981.
13. Letter from Barbara E. Whiting to Judge Hastings dated August 24, 1981.

EXHIBIT 153 HOUSE

IC426

14. Itinerary for Alcee Hastings from October 7 through October 12 Hilton Reservation dated October 1, for October 9, 1981.

15. Itinerary from September 19, 1981 through September 30, 1981.

16. Bill from Detroit Plaza Hotel covering July 26, 1981 through July 30, 1981.

17. Letter to Judge Hastings from Maud P. Pride dated October 16, 1980.

18. Letter from American Express Company to Judge Hastings dated November 3, 1981.

19. Letter from Law Department of Landmark First National Bank of Ft. Lauderdale, dated November 24, 1981.

20. Florida Times Union Newspaper article, Jacksonville, Florida, dated December 22, 1981..

21. Copy of check written by Alcee L. Hastings to Gala Celebration for $100.00 dated August 27, 1981.

22. Program for Pennsylvania Juvenile Officers' Association Harrisburg, PA, September 13 through 17, 1981.

23. Program from Albany State College entitled "Back To The Basics" scheduling appearance of Judge Hastings for October 8, 1981.

24. Handwritten draft of letter to Hemphill Pride from Judge Hastings undated.

25. Handwritten draft of proposed letter regarding Hemphill Pride from Judge Hastings requesting letters of support to the South Carolina Bar Association.

26. Handwritten draft of proposed letter regarding Hemphill Pride requesting financial support for Hemphill.

27. Telephone records for telephone number ~~494~~ 949-9463.

28. Package of literature concerning the Judicial Council of the National Bar Association.

29. Composite of handwritten drafts.

30. Composite of finalized correspondence from handwritten drafts.

The opposition has possession of those items illegally seized from Judge Hastings' Chambers on October 9, 1981, which the defense anticipates admitting during its case-in-chief.

Dated: December 1, 1982

By: _____
PATRICIA G. WILLIAMS

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 154

Dear —

"Hemp" is involved in trying to secure his licenses to practice law again. I have spoken with him several times regarding this matter.

By this letter I am asking you personally to write to the S.C Bar association grievance committee(?) and to the Chief Justice of the S.C Supreme Court at the following address:

In your letter please signal your analysis

EXHIBIT 154 HOUSE

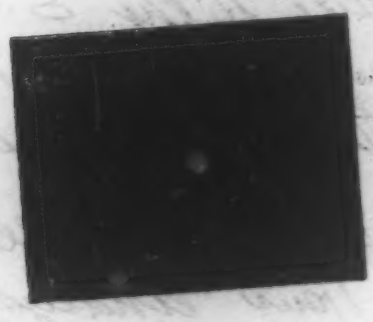
IC 427A

of "Kemp" the lawyer
said Mary as well as
how this dilemma
has affected he and
my family. Your personal
observations may be
very helpful to his
future efforts.

Please call me
if you have any questions
regarding the above.

I trust that your
good offices will expedite
this matter.

Very truly yours,



DJC
wbm
12/12/01
SB-32

Dear ——

As you no doubt know "Hemp" is out of prison and back in Columbia.

I more quickly to the point that he needs our financial help. In my conversations with him he feels that we have extended ourselves greatly for him, thus he feels more is resistant to ask for help from some quarters.

Bill Bordes and I have sort of agreed to help "Hemp". We feel

he would do the same for all of us.

We are hopeful of raising at least $ through this method.

Please don't hesitate to call me or Bill with any suggestions you may have.

In the meantime would you please send a check to Bill's office at:

or directly to "Kemp" at:

The brother desperately needs our help. Please, lets do it for him.

Warm regards

RDC
wkm
12/8/82
58-628

Hemp:

Bill and I feel the following matters may be helpful to you now and in the future.

If you approve let me know and I will facilitate the preparation and mailing of the letters to our mutual friends.

Blood, do you think we should ask that character type letters go directly to the Chief Justice and the Bar? Or do you prefer that they be sent to you for use as you see

JL427C

Liz

Let me know what
you think of both
these efforts.

My best wishes to
your Mother and Dicky.
Please tell your Mum
that she is welcome to
stay with Mum +
I anytime she feels
up to getting away.

Talk to you soon.

Blood,

"him"

exhibit
12/9/22
CR-422

RECORD ON APPEAL Vol 20 of 27 12-29-81 81-427

CROSS APPEAL NO. | CASE NUMBER 82-5262

APPEAL FROM Southern DISTRICT OF Florida AT Miami

DOCKETED 3-1-82 $65 FEE PAID Pd. in D. C. JUDGE Edward Thaxter Gignoux (V.J.)

NOTICE OF APPEAL FILED 2-26-82

DOCKET NUMBER 81-596-CR-ETG

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

United States Senate
EVIDENCE
HOUSE MANAGERS' EXHIBIT 156 pt 1

vs.

HONORABLE ALCEE L. HASTINGS,

Defendant-Appellant.

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
APR 23 1985
SPENCER D. MERCER
CLERK

CONSOLIDATED WITH No. 82-5715

RECORD ON APPEAL BX-91 82-5715

CRIMINAL | DEATH PENALTY | REPO. SYST. NO. | CASE NO.

DIST. | DISTRICT NUMBER 82-5715 | DATE DOCKETED 06-17-82 | U.S. | APPELLANT HON. ALCEE L. HASTINGS | U.S. | APPELLEE JUDGE EDWARD GIGNOUX

ADMINISTRATIVE AGENCY DISTRICT/OFFICE NO. | DIRECT FROM MAGISTRATE | HIGHWAY THROUGH A DISTRICT COURT JUDGE

DISTRICT/OFFICE NO. | DISTRICT/BANKRUPTCY COURT DOCKET NO. | FILED IN DISTRICT/BANKRUPTCY COURT | NATURE OF APPEAL FILED

IN RE:

THE HONORABLE ALCEE L. HASTINGS,

Petitioner.

EXHIBIT 156 HOUSE

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA

No. 81-596-Cr-ETG

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALCEE L. HASTINGS,

Defendant.

VOLUME 9

United States Courthouse
300 Northeast 1st Avenue
Miami, Florida
Friday, January 28, 1983
9:30 a.m.

The above-entitled cause came on for further trial before the Honorable EDWARD T. GIGNOUX, Chief United States District Judge, District of Maine, and a jury, at the time and place aforesaid, pursuant to adjournment taken on January 27, 1983.

APPEARANCES:

SAME AS HERETOFORE NOTED.

- - - - -

RECD	TO JUDGE
2-26	2-26
BY MB	239

OFFICIAL COURT REPORTERS
U.S. DISTRICT COURT
MIAMI, FLORIDA 33101

[The following proceedings were had out of the presence of the jury:]

THE COURT: Good morning, Counsel.

Before the jury enters the courtroom, the Court, once again, wants to caution the specatators there is to be no convera tion, no whispering, no applause, no noise or activities whatsoever from the spectators while this court is in session.

The Marshals have been instructed to insure that order is maintained.

And the jury may be called.

[The jury entered the courtroom and the following proceedings were had:]

THE COURT: Once again, good morning, ladies and gentlemen.

[Replies of "Good morning, your Honor."]

THE COURT: And hopefully you had a pleasant evening.

Mr. Jones, has your toothache been repaired?

JUROR JONES: It is better, your Honor.

THE COURT: Fine. If you have any

problems, you just indicate.

JUROR JONES: Yes, sir.

THE COURT: May I say, ladies and gentlemen, that we will continue our normal schedule today until quarter of 1:00 this morning, with a fifteen-minute recess at 11:00 o'clock, resume at 2:00 o'clock and continue until 4:30, with a fifteen-minute recess at approximately 3:15.

The defense may call their next witness or are there exhibits to offer at this time?

MS. WILLIAMS: Not at this time, your Honor.

THE COURT: All right.

The defense may then call its next witness.

MS. WILLIAMS: Judge Alcee Hastings.

Thereupon--

ALCEE L. HASTINGS

was called as a witness in his own behalf and, having been first duly sworn, was examined and testified as follows:

THE CLERK: Would you state your name, please?

THE WITNESS: My name is Alcee, and that is spelled A-l-c-e-e, L., for Lamar, Hastings, H-a-s-t-i-n-g-s.

THE COURT: Ms. Williams.

MS. WILLIAMS: Thank you, your Honor.

DIRECT EXAMINATION

BY MS. WILLIAMS:

Q Please tell us where you live.

A I live at 2970 Northwest 55th Avenue, Apartment 1-B, in Lauderhill, Florida, and that complex is called Stonebridge Gardens.

Q How long have you been a United States District Judge.

A Since November of 1979.

Q Before you became a United States District Judge, what did you do?

A I was a Circuit Court Judge in Broward

County, Florida, and that is called the Seventeenth Judicial Circuit.

I served in each division of the court with limited duty in the Probate Division, but I spent a short amount of time in the Civil Division, a little longer period of time in the Criminal Division of the Circuit Court, and I spent the greatest portion, my most satisfying period of my life, in the Juvenile Division of the Broward County Circuit Court.

Q How long did you sit on the Broward County Circuit Court?

A In May of 1977, having been appointed by Governor Reuben Askew, until 1979 when I was appointed by President Jimmy Carter to the present position that I hold.

Q All right.

Before assuming the Circuit Court Bench, what did you do?

A I was a lawyer in a you-all come practice for thirteen years prior to becoming a Circuit Court Judge.

Q Would you-- Go right ahead.

A I was going to say that my practice contemplated just about every facet of the practice of law

which I would not urge upon fledgling lawyers to attempt to do.

I handled cases from first degree murder to failure to yield the right of way, domestic relations, civil rights, negligence cases, all sorts of matters, condemnations, real estate, Wills.

That is why I called it a you-all come practice.

I tried to do a great deal as a practitioner and had a very exciting practice as a result of that.

Hastings - direct

Q Was it a profitable practice?

A I entered the practice of law borrowing money and I ended the practice of law, the last act that I did as a lawyer before becoming a Circuit Judge, was borrow money.

Q Why was that?

A Why?

Q Yes.

A To pay the bills from the office that very kind people that I had worked for for a considerable period of my career. Be assured that I made money. I think of my deceased father's statement with regard to my practice. He said to me one time, it seemed that I was in business just to be in business and what transpired was that I did an awful lot of things because I thought that a service needed to be rendered and a lot of times I was not paid.

There were other times that I was paid, I believe, maybe even more than I was worth by some clients who either had the wherewithal or were gracious enough to pay me.

And it balanced over the years. I didn't go bankrupt. I never missed paying either secretary that worked for me, but I missed a few paychecks of my

own during that period of time.

Profitable in spirit. Profitable emotionally. Profitable in terms of serving my fellow persons that I worked for as a lawyer. Not at all profitable in terms of the thirteen years producing a large sum of money for me to claim that I had gained as a result of the practice.

Q All right.

As a United States District Court Judge, and probably even before becoming a United States District Court Judge, did you travel a lot?

Did and do you travel a lot?

A As a United States District Court Judge, yes, I have traveled extensively since I have been on the Bench; no question.

Q What generates that travel?

A There are a number of duties as a Judge, but it would probably be well to say that the very first time I ever traveled in my life I was five and my parents tagged me in Newark, New Jersey, and put me on a train and sent me to Florida to my grandmother, and I have been traveling ever since, and that is an understatement to say the least.

But to respond specifically, Ms. Williams,

to the question you put to me, the travel generated since I am a United States District Court Judge I think because of the position and the years of having been involved in either the State of Florida's political activities and civic activities and in some respects the nation, that I began to get more and more requests to speak.

And when I received those requests, as often as time would permit, I would honor them.

In addition to that, I serve on the American Bar Association's Standing Committee on Professional Practices and Discipline and I am very proud of that particular service. That's one of the American Bar Association's hardest working committees in my considered opinion, and we are in the process of some very delicate phases of work having to do with disciplinary undertakings throughout the United States of America.

We are scheduled to meet and it requires travel as much as four times a year. That's our regular schedule.

But I serve on a subcommittee that has to do with agency discipline, and for that particular reason, it seems that I have spent a great amount of

time traveling on that subcommittee perhaps to Washington more times than even the Standing Committee.

In addition to that, I am a trustee on the Board of Bethune-Cookman College, and our regular meetings there and the subcommittees that I serve on and I interface with the students at Bethune-Cookman College on the subcommittee for which I am responsible and that causes me to travel to the Daytona and Orlando area quite considerably.

I have been and am an adjunct and/or associate professor at Nova University, and Nova University has a program where they satellite the professor to other locations, and I have taught for Nova in Washington, D.C.; North Carolina; Norfolk, Virginia. I have taught in Tallahassee twice. I have taught in Tampa. I have taught in Fort Lauderdale and in Miami and in Jacksonville. All for Nova University. And that generates travel activity.

And then I am what you might describe as a weekend vacationer. I rarely, if ever, get a chance to take a long vacation, and I always, when possible, will work that travel around some one of the kinds of activities that I have just described.

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U.S. DISTRICT COURT
MIAMI, FLORIDA 33101

Q You mentioned earlier politics.

Would you explain to us what your involvement in politics was prior to your assuming the Bench?

A I don't want to bore the ladies and gentlemen of the jury with my history as an unsuccessful seeker of office.

Suffice it to say that I sought office eight different times, and I lost them all with the exception of one of those times when I felt that I won.

And one thing that you do gain in politics is a tremendous insight to the problems that are on the minds of the general populace, and you get a chance to meet just hosts and hosts of people that but for that experience you never would have an opportunity to meet them.

I got involved in politics in college in 1954, and I have been involved in politics in one fashion or another since that time, and I would not go all the way back to high school and student council politics but there, too, I was involved.

I ran in the State of Florida what I have categorically described as a mission of history in 1970. I ran for the United States Senate. Our now

Senator Charles, who I have a great affection for, won that election. I don't have that affection because he won, because I would like to have myself. Subsequent to that--

MR. WEINGARTEN: Judge Hastings, excuse me, sir.

I don't mind a chronological rendition of Judge Hastings' political activities, but it appears now we have a speech.

I am going to object to this form of answer.

If Ms. Williams wants to ask what offices have been sought and resulted in election, that would be fine.

THE COURT: Well, Judge Hastings, the Court will then caution you to answer the question asked of you.

If Ms. Williams wants more, she will ask for something more.

THE WITNESS: Thank you very much, your Honor.

THE COURT: Ms. Williams, do you wish a glass of water?

MS. WILLIAMS: I think it might be helpful.

THE WITNESS: There's a cup right there.

THE COURT: Excuse me.

The jury officer will bring water for you.

MS. WILLIAMS: Your Honor, I have one. Thank you so much.

BY MS. WILLIAMS:

Q All right.

Judge Hastings, let's talk about Bill Borders for a few minutes.

When did you meet Bill Borders?

A Thirteen or fourteen years ago.

Q And what were the circumstances of your meeting him?

A The National Bar Association was having a function in New York City and I met him during that period of time having been introduced to him by a fellow that is a lawyer in New York named O. T. Wells.

Q All right.

So you have known him for thirteen years. Would you characterize him for us as best you can?

A I think that characterizations as offered of Bill are such that I could concur in large part with

what other witnesses have said.

I have often concerned myself about his secretiveness and there's no question in my mind at all that in dealing with him you come to know him as a quiet person that has influence and a considerable amount of influence he did achieve, and I have had occasion to wonder how he did it.

I consider his telephone manner to be as different as any that I have ever known, and I have heard countless witnesses describe that manner and I concur in large part with everything that they have said without having to go back into it.

But the one thing that I do know is that a lot of times when you talk with Bill on the telephone, you know what you're saying but you may not always know what he is saying.

BY MS. WILLIAMS:

Q All right. Now, how would you describe the relationship that existed between you and Bill Borders?

A More political allies than social allies. Our socialization being together seems to come about more as a result of organizational undertakings in the National Bar Association or either or both of our involvements at the same time in political endeavors. And that is the best way that I know him.

I do not have a male friend that I spend a considerable amount of time with, socially. In the vernacular, fellows may say "My bosom buddy or my running partner." I would not describe Bill Borders as such a person as it pertains to me.

Q All right. Over the thirteen year period that you have known Bill, have you had occasion to take him to the Fontainebleau Hotel?

A Yes, I have.

Q When was that?

A We had a judicial counsel meeting of the National Bar Association. The judicial counsel is a part of the National Bar Association that interfaces with it. And Mr. Borders was the president

elect, at that time, in 1981, or maybe the president. And our meeting of the judicial counsel, that is black judges and other judges from around the country, we were meeting at the Carillon Hotel on Miami Beach and it was either February or March of the year 1981 and he asked if I would drop him by the Fontainebleau. And I did. I took him there and left him.

Q Over the course of the years, did you form an impression that Bill Borders, when in Miami, had a preference for the Fontainebleau Hotel?

A No, I did not form such an impression. I only took him there on that one occasion. I do know that he tended toward luxurious undertakings wherever we were throughout the country.

Q Have there been occasions, other than the September 16th meeting at the Fontainebleau Hotel, wherein Bill has asked you to meet him at some place and time and he did not show up?

A I thought long and hard about that particular question and I can think of two or three times. Specifically, one that comes to mind, Bill called me once from Atlanta and it was roughly 10:00 at night and he called me at home and indicated to me that he wanted me to meet him at the Miami Airport,

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U.S. DISTRICT COURT
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that he had a matter of urgency and I went to the Miami Airport, and the time that he wanted me to meet him was 2:00 in the morning. I went there and he never came and never gave me any reason for not coming.

Another time at a restaurant in Washington, D.C. called the Leon Du Jour he asked if I could meet him there and if I could be very specific about that particular occasion that would have been sometime in the month of July of 1981, and I stayed there and had dinner with guests, one of whom has testified here, Miss Brenda Russell, and her husband, and Mr. Borders was supposed to come and he did not come. And when I saw him the next day he said nothing about it, save a chuckle when I asked him what happened.

And I think there was one other one, but since I cannot be specific I won't bother to try to relate it.

Q Is it fair to say that moreover than not Bill Borders did show when he said he would show?

A It depends. You see, if you are talking about like at the Bar Association, when we meet we meet for a week and there he may very well say, "I'll see you at a certain room where an activity is going

on," either politically or socially. I don't want to isolate on William Borders because that happens with the whole group of us in the National Bar Association and Bill and myself happen to be among that particular crowd of people. But indeed I know that that it occurred that he has told me "I'll meet you at a certain seminar that is going on. I will see you there." And you never see him. He has this aura of being able to show up at times and disappear at times without people knowing about it. And I have talked with others about that and I feel that way.

Q Now, let's talk for a few minutes about Hemphill Pride.

A Yes, ma'am.

Q When did you meet Hemphill Pride?

A On the law school steps of Florida A&M University in 1963. If I said--'63. Yes.

Q All right, and--

A '62. '62.

Q All right, '62.

A Yes. We graduated in '63.

Q Now, describe the relationship that existed between you and Hemphill.

A Very, very close. Everything that has

been said here I concur in. Best way to describe it is I am his child's godfather and he is my child's godfather, and throughout the period of knowing him I would think that I have been the big brother in the situation and Hemphill, perhaps because of frailty of his, is indeed more of a receiver in my relationship than he is a giver. And there is no question but that is true.

Q Because of a frailty?

A I think he has some character situations, memory, for example, is a difficult thing for him and that has always been the case. He does not deal with minutiae. He does not deal with detail very well. And he squandered, when he had it, money like it was going out of style. And I think that that was a frailty.

There have been times that I thought he was a millionaire and it seemed that with the exception of one occasion he borrowed money from me and I was in need at different times and he was unable to provide same

I can recall one specific instance where he loaned me $1,000. But I can recall countless situations where I recall myself lending him money and

it was never returned to me.

Q As you have just characterized him, bearing that in mind, would you explain to us, then, why he is your friend or why he was your friend and is your friend for such a long period of time?

A He's my friend and has been my friend for the--. If you ask somebody to give a reason for friendship it's so hard to do that but I would say this: That occasionally you are someone's friend because they need you and they need you because they have a series of ongoing problems. And that has always been the case in my relationship with Hemphill, ranging from our law school experiences all the way throughout all of our careers, to the present day.

Hastings - direct

Q You said that within the relationship you were the giver and Hemphill was the receiver?

A Yes, ma'am.

Q Can you give us some of the specifics of your giving to Hemphill?

A Hemphill's father was a doctor and his mother has been active in real estate and they sent him lots and lots of money when we were in college for a variety of things, and I say college meaning law school. And it seemed that Dr. Pride would call me to try to get a handle on stabilizing Hemphill and I willingly undertook that role in trying to shepherd him through law school.

Both Hemphill and I had left law school previously, he at South Carolina State and myself at Howard University, and under different circumstances we would up at Florida A&M.

Dr. Pride was very concerned that he might not become a lawyer and for that reason he wanted and was glad to know that there was a stabilizing force.

I had sent money to him on numerous occasions in unsolicited fashion, particularly when he began hitting rough spots in his life.

I helped both of his wives financially

and emotionally when they had difficulties. Either they or Mrs. Pride would call me--Mrs. Pride meaning the matriarch of the family, Hemphill's mother. That has just gone on countless times.

I heard him testify here that he asked me to come to the Maxwell Prison when he was there. He did not ask me to come to Maxwell. I went to Maxwell. And he didn't even know the day that I was going to go there and I might add, over the vigorous objection of my mother for the reason that I sat here as a United States District Court Judge and she thought that I should not do that.

He thought, as he indicated, that I should raise funds for him for some appellate undertaking having to do with selective prosecution.

I declined and stated the reason for declining and subsequent to that time called numerous friends and asked them to support Hemphill's family or him in any financial way that they could.

So, I don't want to rail on and on and on and on. I think it can be easily demonstrated that I helped him both solicited and unsolicited over a period of twenty years, including doing his lesson when he was in law school.

Hastings - direct

Q Did there come a time, or many times, wherein his mother wrote to you requesting that you provide certain assistance to Hemphill?

A Indeed. I heard from Mrs. Pride frequently.

Q Judge Hastings, I hand you what has been marked as Defendant Exhibit No. 26 and ask you to identify for the ladies and gentlemen of the jury.

A Yes, ma'am. This is a letter dated October 16, 1980 over the signature of Hemphill Pride's mother, Mrs. Maude B. Pride.

Q To whom is that letter direct address?

A It is addressed to me.

MS. WILLIAMS: All right.

At this time, your Honor, I wish to move into evidence Defendant Exhibit No. 27.

MR. WEINGARTEN: I would like just to see it.

THE WITNESS: It is 26.

MS. WILLIAMS: Pardon me, 26.

THE WITNESS: Yes, Mr. Weingarten.

MR. WEINGARTEN: No objection, your Honor.

THE COURT: There being no objection,

Defendant Exhibit 26 is admitted in evidence.

[Defendant's Exhibit No. 26 was received in evidence.]

BY MS. WILLIAMS:

Q Judge Hastings, would you read the contents of that letter to the ladies and gentlemen of the jury?

A Yes, ma'am. It reads as follows:

"Dear Al:

"I called last night to talk with you and your mother, had a nice chat with her. I wanted to thank you again for your help to us."

Just in case, let me go back and make the period clear. It is October 16, 1980. It is not 1981.

"It has been extremely rough and nerve-racking for the family, for over three years, now. With the help of the Lord and you and other friends and relatives we have managed to stay alive. Shirley is working."

And in parenthesis, "(not much of a job salary-wise.)

"I get a small social security check. No other income. When I pay rent I have $60 left. I have insurances to pay, light and heat bills, telephone, food and gas to buy.

"I have to try to keep my car running because I have to take Hempy home from school."

And she here is referring to Hemphill's son.

"Most of the time and carry him other places, although he lives with his mother. He just stays there, really. She carries him to school in the morning but makes no arrangements to get him home or anywhere else. He is involved in football, soccer and other school activities. You know how it is with a teenager. He will be sixteen tomorrow."

And she writes across the page, "A critical age."

And I can't read what she says here. And then she says, "For nearly two weeks Eliott," and that is Hemphill's second

child with Shirley Pride, and she writes in the margin, "He is in nursery school, has been ill with a cold and the croup. Shirley had to stay home several days with him. She cannot afford to stay off the job. I keep him, sometimes. He is so heavy and very active that I can hardly manage him. I will be seventy-two in a few days. I have arthritis in my knees and a sore and weak arm resulting from a sprain sometime ago. We need Hempy," and she is referring to her son, now, "home badly. I am trying to ask you to please help me to get him out of Maxwell. That is what I wanted to talk to you."

And it ends, there.

"Hempy said he wanted to ask you himself but decided it is better for me to ask you since he cannot talk confidential and private."

And in parenthesis she puts, "(He's been there seven months.)

"He says you know Warden Crow very well and he thinks very highly of you.

He wanted you to call the warden and ask him to please release Hempy to a halfway house immediately, Columbia or Charleston. Tell him how you have been helping us financially since Hempy has been away and Hempy says give him the seven listed reasons why he should be out. This is very important."

And she then underlines "very-important-urgent."

And she underlines "urgent."

"Number one, he has to start all over again. Number two, he has been disbarred, cannot practice law. Three, he lost all of his property. Four, he is indebted to IRS. Five, he does not have a job. Six, he has no money. Seven, he has his wife, two sons and me to support.

"Al, please emphasize Hempy's situation to him. Time is of the essence, so I am writing to you since you may not get around to calling me right away. Please call him immediately

and then call me and tell me what happens, will you?

"Again, many many thanks for all you have done and whatever you can do, now. I cry myself to sleep every night.

"Sincerely, Maude Pride."

Q Judge Hastings, does that letter represent the kind of relationship that you have had with Hemphill Pride's mother over the years? Does she normally communicate with you much in the way she communicated with you in that particular letter?

A Yes, ma'am, by letter and by phone.

Hastings - direct

BY MS. WILLIAMS:

Q Did you receive letters from Hemphill, himself, or telephone calls from Hemphill, himself, requesting of you assistance in any way?

A During what period, Miss Williams?

Q 1980, 1981.

A While he was incarcerated, yes, ma'am. I received communications from him as did my mother and that form of communication would either be letterwriting and telephone calls and messages from others.

Q All right.

Judge Hastings, I am handing you what has been marked as Defendant Exhibit No. 27 and I ask that you identify that for the jury, please.

A Yes, ma'am. This is a letter dated July 18, 1980, and it is over the signature of Hemphill Pride but it is abbreviated "Hempy".

MS. WILLIAMS: All right, Your Honor, I would, at this time, move into evidence, Defendant Exhibit 27.

MR. WEINGARTEN: No objection.

THE COURT: There being no objection Defendant Exhibit 27 is admitted into evidence.

(Defendant Exhibit 27 was admitted into evidence)

BY MS. WILLIAMS:

Q Judge Hastings, would you read the contents of the letter from Hemphill Pride to you, to the ladies and gentlemen of the jury?

A Yes, ma'am. It begins with "Blood". That is a phrase that a lot of us in the National Bar Association call each other indicating a strong bond of friendship.

We didn't cut our wrists like some people did at different times but we do call each other "blood," on occasion.

"Julius send me the draft. You can see from his letter he is sending the draft to Truston Moore, to get his input. I send Shirley to Washington last week to meet with A.J. Cooper, Jr., (Big Al's son) he now works for HUD. He is helping us obtain the audit reports of white federal project owners in South Carolina. We have a total of five so far. They are quite revealing and will be helpful in showing the Court their misuse of rents. Shirley also went to the Justice Department and the Senate Judiciary Committee, Senator Clarence Mitchell. They both promised to monitor my hearing in Columbia and we gave the Justice Department the audit reports showing how white owners have been and

still are misusing rents from projects.

"Clarence said they also promised to take criminal action against the whites. I am in charge, Blood, and have the strength to keep fighting, but I need your help. All this is costing money. Don't let me down. Raise some money to help keep me going and pay Julius.

"Peace, Hempy."

"P.S. Love to your mother. If you can add anything to the draft that might be helpful, please do."

Q Thank you, Judge. To what is Hempy referring to in that letter? What is he asking you to do?

A One, he is asking me to assist in raising money for him. Two, he is referring to some action that he is taking that is being handled by a lawyer in North Carolina named Julius Chambers. And evidently Mr. Chambers had been in some fashion retained by Hemphill to undertake whatever facet of his legal plight that was ongoing at that time.

Q Now, did you grant Hempy's request that you should raise funds for his legal defense?

A In part, yes, and in part, no.

Q Please explain.

A The part no had to do with what I did tell him at such time as I had an opportunity to speak with him and that is that I felt that if I were to really go gung-ho in trying to raise money for him, that I could run into ethical problems.

My reason for that stems from the fact that when I was a state court judge, I was the chair-person of the United Negro College Fund in Broward and I had to step aside from the Chair because I perceived, upon being told by the chief judge, there, George Tetter, that there might be a problem along those lines.

Well, I took my learning well and I brought it with me here and I advised Hemphill that I could not do that. But I did, indeed I did seek to have personal friends of mine and his who would not have been able to appear before me in court unless I explained to the litigants that they were opposing that I had a personal relationship with these people totally unrelated to Hemphill Pride.

So, in part yes, I did ask personal friends to assist him. But for the greater portion, I made no concerted effort as I would know how to do to

raise money.

Q All right. Now, what do you understand regarding Hemphill Pride and his efforts to be reinstated in the South Carolina Bar? Do you understand --what do you understand legally about that, first?

A I know now and have known since this particular situation what the law is in South Carolina with reference to a person seeking to have his licenses restored once he or she has been indefinitely suspended.

During the time that Hemphill was immediately released from prison and while he was in prison, I did not know, nor did I have complete information concerning his status. With reference to the legal aspect of his seeking to be reinstated, my impression was, at the time, that at some point in time he would be eligible to have his licenses restored.

Q Now, how did you gain that impression?

A From him and I heard different things from him at different times.

Q Did you receive some information relative to Hemphill's status with the Bar, from his wife, at some point in time?

A Shirley Pride.

Q Shirley Pride?

A I believe I did receive from Mrs. Pride, upon Hemphill's direction, a packet of information that included in it the matters that Mr. Chambers was handling and another lawyer that I like a lot named John Harper was handling for him and in that I believe that package or another one may have included the decision.

Q All right.

A The actual decision that was handed down by the South Carolina Supreme Court.

Hastings - direct

MS. WILLIAMS: All right. One moment, Your Honor.

MR.WEINGARTEN: May we approach the Bench?

(Sidebar conference between the Court and counsel out of the hearing of the jury as follows:)

MR. WEINGARTEN: Defense Exhibit 28 is a packet of material. We object to one item, apparently a newspaper article doesn't further the inquiry at all. Obviously it is provocative I ask that it be removed until the exhibit admitted is--

MS. WILLIAMS: Your Honor, we would ask it be identified and remain part of it, but I have no objection to removal from the package.

THE COURT: Without objection, then, the newspaper article in question will be removed from Defendant's Exhibit No. 4.

MR. WEINGARTEN: That's 28.

THE COURT: I'm sure.

Do you want this included?

MS. WILLIAMS: I want it preserved for the record.

THE COURT: It will be marked, then, as

28A.

MR. WEINGARTEN: All right.

Perhaps that should be done before it is identified.

MS. WILLIAMS: All right.

MR. WEINGARTEN: Thank you, Your Honor.

MS. WILLIAMS: Thank you.

(Sidebar conference concluded and the following proceedings were had in open court:)

BY MS. WILLIAMS:

Q Judge Hastings, I am handing you what's been marked Defendant's Exhibit 28 for identification, please.

A Yes, ma'am.

Q Would you tell the jury what it is?

A This is a compiled set of documents that were sent to me by Mrs. Shirley Pride at the direction of Mr. Pride, I believe.

MS. WILLIAMS: Your Honor, at this time we would move to introduce into evidence Defendant's Exhibit 27, with the exception of 27A.

THE COURT: All right. I think it is 28.

MS. WILLIAMS: 28, I apologize. 28.

Hastings - direct

MR. WEINGARTEN: No objection.

THE COURT: There being no objection, Defendant's Exhibit 28 is received in evidence with the exception noted.

Perhaps counsel could return the documents to the Clerk so that the other--

THE WITNESS: Yes, Your Honor.

THE COURT: Madam Clerk, may I see the exhibit, please.

(Whereupon, the exhibit was shown to the Court.)

THE COURT: I'm sorry, ladies and gentlemen, but I do have to review some of these papers before they are submitted.

(Sidebar conference between the Court and counsel out of the hearing of the jury as follows:)

THE COURT: All right.

MR. WEINGARTEN: When I was shown this document by Miss Williams,I misunderstood what this case was. This was provided to the Government. This is an unrelated case that I understand was appended to the Hemphill Pride opinion that was sent.

Let me make the record clear. Included

in Defendant's Exhibit 28 is a case captioned United States of America versus Slater Gibson Leverette, and apparently it was decided on April 22, 1977.

MS. WILLIAMS: Borders was for the appellant.

MR. WEINGARTEN: Now this document, this opinion, was provided to us in reciprocal discovery. Before we would agree to the admission of the entire 28, we would ask a proffer as to why this is relevant.

MS. WILLIAMS: It simply forms a part of the package that was sent that the Judge was to review to determine what assistance, if any, he could render to Hempy in his legal plight, and this is the entire packet that he was to review to make his determination as to what it is he could do so it had--the whole package had an effect on whatever decision he made.

THE COURT: Is this referred to in the opinion?

MR. WEINGARTEN: What she is referring to is unpublished.

THE COURT: Was a petition filed in that case by Mr. Pride or was it referred to in the Court's opinion?

MS. WILLIAMS: It was referred to in the Court's opinion, I believe, yes.

MR. WEINGARTEN: Was this the Court opinion?

MS. WILLIAMS: Yes.

They are filed --

MR. WEINGARTEN: The name of that case is the--

THE COURT: There's another opinion of the Court.

MR. WEINGARTEN: It seems to me that the inclusion of this case with Borders as the attorney can only dramatically confuse the issue. The fact that Shirley Pride went to Judge Hastings for assistance is not disputed and the documents relating to Hemphill Pride are obviously relevant, but we would object to the inclusion of this opinion.

I don't think it relates to any--

THE COURT: Can you find out where it is referred to in this packet?

MS. WILLIAMS: It is not referred to in the opinion. It was the guide that was used by Mr. Shorter when he was drafting Hemphill's--

THE COURT: Well, you make that statement,

but is there anything in this package which would identify--

MS. WILLIAMS: Is just a case similar to the one Mr. Pride had which was used in the preparation of Mr. Pride's appeal. That's all.

THE COURT: Well, this Court can't possibly review this mass of papers in order to determine whether there's any relevancy.

Well, here we are. I have finally found it. In the return filed September 23rd, 1980, the United States versus Leverette, unpublished, and so forth, is cited. The return having been filed by the United States Attorney in Columbia, South Carolina.

MR. WEINGARTEN: I have no doubt that that opinion was included in the package that was sent. Our argument is as to the newspaper article and the fact Borders was associated with the case in '77, is going to be very confusing and the relevance does not outweigh that particular factor.

I mean, just like the newspaper article, I have no doubt that the newspaper article was included.

MS. WILLIAMS: I know. I will agree that the newspaper article might be confusing. I disagree that the inclusion of the case--

Hastings - direct

THE COURT: For what purpose are you including the copy of the opinion in there?

MS. WILLIAMS: Your Honor, it shows they made some decisions as to what he could and could not do based on what he knew to be Hemphill's legal state and this is what informed him.

THE COURT: The Court will permit it. The objection is overruled.

MR. WEINGARTEN: Thank you, Your Honor.

MS. WILLIAMS: Your Honor, may we leave on the transmittal memo?

THE COURT: Are you adding something to the exhibit?

MS. WILLIAMS: It was a part of the exhibit originally. The Clerk removed it when she removed the newspaper article, but this did form a part. It is just a transmittal memo.

MR. WEINGARTEN: What's the bottom say?

MS. WILLIAMS: "Al, Hemp is writing you a letter."

MR. WEINGARTEN: Okay. No objection.

THE COURT: No objection?

Then this will be included as a part of the exhibit.

Hastings - direct

MS. WILLIAMS: Thank you, Your Honor.

(Sidebar conference concluded and the following proceedings were had in open court:

THE COURT: Defendant's Exhibit 28 has been received in evidence without objection. Sorry for the delay, ladies and gentlemen, but it is necessary to review this mass of papers before a final determination can be made.

(Defendant's Exhibit No. 28 was admitted into evidence.)

Hastings - direct

BY MS. WILLIAMS:

Q Judge Hastings, I handed you Defendant's Exhibit 28 which you have identified as the package of materials that you received from Shirley Pride relative to the legal status of Hemphill Pride.

A Yes,ma'am.

Q Within that packet, is there a published court opinion in the matter of Hemphill Pride?

A Yes, ma'am. It reads, "In the matter of Hemphill Pride."

THE COURT: Excuse me. I think you have answered the question.

THE WITNESS: Fine.

BY MS. WILLIAMS:

Q And how is that opinion styled?

A "In the matter of Hemphill Pride, II, respondent, Case No. 21460, Supreme Court of South Carolina, May 26, 1981."

Q And where is that case found, in what Reporter?

A 278 Southeastern Reporter, 2d series, beginning at page 774.

Q Now, is that the official publication of a ruling of the Supreme Court of South Carolina in

Hemphill's case?

A Yes, ma'am, it is my recollection that it is, that I got that at some time subsequent to the information that I got from Mrs. Pride regarding the original ruling.

Q All right. What does that opinion state about the duration of Hemphill's suspension, do you know?

A Nothing more than his suspension was, and I can tell you from the opinion, it says the suspension was indefinite.

Q Does the opinion state anything further regarding how long Hemphill would have to wait in order to apply for readmission to the South Carolina Bar?

A No, ma'am, it does not.

Q And that is the official publication in the matter of Hemphill Pride?

A Yes, ma'am, it is.

Q All right, thank you.

Now, Judge Hastings, will you tell us what it is you understood to be--first of all, did you receive a call from Hemphill Pride regarding any efforts he might have been making to be readmitted to the South Carolina Bar?

A Often.

Q Often?

A Yes, ma'am?

Q When did these telephone calls begin?

A Well, let's say this: I can never--you asked me when did they begin? I would think that they began the day following his conviction.

We had our very first conversation regarding his status as a lawyer, and from that date, and I don't remember the date of his conviction, if I relate it as well, I don't rememberthe exact date of his conviction , but from that date until November of last year, '82, I was still having conversations with him and at some point during the course of every conversation, either in person or on the telephone, I have spoken with him having to do with something about his hopes to practice law again.

Q Did Hempy seek your advice regarding a particular step he was going to make to regain his license, to have his license restored?

A Yes, he did.

Q Would you tell us about that?

A Recalling the time period is difficult, but I would think some time beginning in the month of

August, Mr. Pride advised me that he had made a speech that he thought was a denouncement of the Chief Justice of the South Carolina Supreme Court, and he thought that that would have considerable impact upon any opportunity that he would have to practice law again in South Carolina and he arranged for a meeting with Chief Justice Woodrow Lewis and advised me that such a meeting was arranged and asked my advice regarding how he should approach that particular situation.

Q Did you give him any advice?

A Yes, I did.

Q What advice did you give him?

A At that time and at yet another time before he ultimately met with the Chief Justice, I advised him that he was in an "on-your-knees" posture and that he was going to have to literally crawl on his belly because of the fact that in the decision that is included here in the composite, Exhibit 28, Chief Justice Woodrow Lewis was one of the people that had voted against Hemphill's opportunity to practice law again by not agreeing for him to be indefinitely suspended and the decision evidently -- I do not know the hierarchy in South Carolina, but I believe they must have five members of their Supreme Court.

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If there are more, then only five participated in the ultimate decision as rendered herein, 278 Southeast 2d. And it was a three-to-two opinion and the three judges voted for Hemphill to be indefinitely suspended rather than disbarred which would have meant he could never practice law again or the circumstances would be very stringent if one would overcome disbarment, at least in South Carolina.

Judge Woodrow Lewis was one of the two judges that voted in effect for him to be disbarred.

So he was justifiably, in my opinion, concerned. I advised him that he should go there, express himself in all respects that he wanted to be a different person than he had announced at his speech and at other matters that I'm sure that he and Justice Lewis, Chief Justice Lewis, would be more privy to.

He first arranged to meet with him in Darlington, South Carolina, and he called me back and told me that he had sat all afternoon long in Darlington and evidently the Chief Justice who he thought was in his office, either was not there or Hemphill's impression was that he had gone through one of the Judge's exit doors in an effort to avoid him.

Subsequent to that time, he did meet

with him and he did say many other things and I am not including all of what we said in a variety of conversations, but he met with him and called subsequent thereto and advised me what the essence of that meeting was.

Hastings - direct

Q As a result of what you learned through Hemphill about his meeting with the Chief Justice of the Supreme Court, did you write a letter to the Chief Justice of the Supreme Court?

A Much, much later, in July, I believe on the 9th of July of last year, I had occasion to write a letter to the Chief Justice Woodrow Lewis.

Q In July of last year, would you say?

A Yes, ma'am. I believe it was July 9th, 1982.

Q Now, what was the basis for your writing to the Chief Justice?

MR. WEINGARTEN: Excuse me. Objection, and I ask to approach the Bench.

THE COURT: Counsel may approach the Bench.

(Sidebar conference between the Court and counsel out of the hearing of the jury as follows:)

MR. WEINGARTEN: I have a strong suspicion that we are about to get into Judge Hastings' contact with the Chief Justice. We are going to object to all that, A, because it is irrelevant and, B, because it is hearsay. All the hearsay about Hemp Pride comes

in with no objection, but Judge Hastings meeting with Chief Justice Lewis where Chief Justice Lewis may have spoken to Judge Hastings is obviously hearsay and in addition, we think it is irrelevant.

MS. WILLIAMS: Your Honor, we don't intend to have the Judge say what happened in any meeting that he may have had with the Chief Justice of the Supreme Court.

MR. WEINGARTEN: In addition, I think the fact that Judge Hastings met with the Chief Justice in anticipation of this trial, is irrelevant.

MS. WILLIAMS: It has to do with--it is irrelevant?

MR. WEINGARTEN: Yes. The fact that the Chief Justice met with Judge Hastings in anticipation of evidence in this trial has nothing to do with the indictment or the charges.

THE COURT: You are referring to--

This letter is Judge Hastings wrote to the Chief Justice was written in July of 1982. That's this last summer.

MS. WILLIAMS: Yes.

THE COURT: Was this a letter which was referred to in the chambers conference in which he asked

Hastings - direct

the Chief Justice for an interview?

MS. WILLIAMS: Yes.

THE COURT: How is that--it doesn't appear to be in any way relevant.

MS. WILLIAMS: The objection is on the basis of relevance.

MR. WEINGARTEN: Yes. First and foremost, relevance. The fact that Judge Hastings met with a witness in anticipation of this trial is not competent evidence. It is incompetent, irrelevant and it is hearsay.

MS. WILLIAMS: It goes to the Judge's state of mind as to his belief as to whether or not Hemphill was in need of assistance from him.

MR. WEINGARTEN: Well, the fact that it goes to Judge Hastings' state of mind in July of '82, months after the indictment, is not germane.

THE COURT: The objection is sustained.

(Sidebar conference concluded and the following proceedings were had in open court:)

THE COURT: Ladies and gentlemen, the objection has been sustained to the pending question.

BY MS. WILLIAMS:

Q All right.

Judge Hastings, did you as a result of your knowledge of Hemphill's efforts to regain admission to the South Carolina Supreme Court and as a result of any request that he may have made to you over a period of time undertake any activity to assist Hemphill?

A Yes, ma'am.

Q Now, when did you first consider assisting Hemphill?

A The day after I met him on the law school steps.

Q In relation to his license?

A The day after his conviction, I considered and that persisted.

But if you are talking specifically about the period fo time during which he met with the Chief Justice, it would have been some subsequent to that meeting that I determined that I would do the things that I told Hemphill that I would do.

Q Did Bill Borders ever approach you about

helping Hempy to get his license restored or helping Hempy in any way?

A Yes. Not as much the license restoration as financial consideration that he felt Hemphill was in need of.

And he broached that subject to me at the National Bar Association in July; some time after the 25th of July of the year 1981 I believe it was.

Q What was happening in July--

Did you say the National Bar Association meeting?

A Yes, ma'am. In Detroit.

Q What did he suggest to you at that point in time?

A His belief was that Hemphill was in desperate straits financially and that was not hard to reconcile.

And it came at the occasion of a phone call from Hemphill to a room where a whole bunch of us had congregated that know each other very well and each one of us in that room, with the exception of maybe a few people--as many as twelve persons--spoke to Hemphill and encouraged him to come to Detroit.

I was the final person to speak with him

and he assured me that he was going to come, and he did come for whatever reason.

And Borders and I shortly thereafter had a conversation about Hemphill's financial situation and he asked me if I would participate in an endeavor with him to assist him financially and I explained to him some of the difficulties that I had with doing that in any overt fashion but that, indeed, I would continue whatever efforts I could along those lines.

During that same period of time, I talked about the license restoration but not with specifics, as I did at a subsequent time, because Hemphill had not met with the Chief Justice.

Q All right.

But is it fair to say that as early as July of 1981 you and Bill Borders had begun discussions about efforts to aid Hempy at least financially?

A Before that period of time, at that time and up to the time of Bill Borders' arrest.

Q All right. Fine.

Now, Judge Hastings, let's talk about your travel for a moment.

A Yes, ma'am.

Q Since it seems to be pretty much in the

picture here, did you travel during the month of September?

A I did.

Q When were you scheduled to travel during the month of September and where were you going to go?

THE COURT: Just to avoid confusion, you are referring, I assume, to September '81?

MS. WILLIAMS: Yes, your Honor, I am referring to September '81.

THE WITNESS: The very first out-of-town travel--out-of-town meeting out of the State travel that I would have undertaken would have been to Washington and Harrisburg, Pennsylvania.

And I was originally scheduled to leave on September the 10th and I changed that reservation. The plans for that began-- Betty Williams, my secretary, testified when the plans began.

BY MS. WILLIAMS:

Q During the summer.

A Yes.

But she did not know of negotiations that I had undertaken. I spoke here in Miami to a Juvenile Conference, and it was from that Juvenile Conference that I received invitations in New Jersey and Pennsyl-

vania and in Louisiana and in California to speak with reference to juvenile matters.

And I agreed with the persons in Pennsylvania that I would come and that is as much as six months before the six-month period that Miss Williams actually received the confirmation and notice from me that I would obtain it.

That is the genesis of my going into the eastern corridor at that particular time.

Q Were you presiding over a trial in September, the 1st of September or so; do you recall?

A I believe I was presiding in the case of United States of America vs. Felix the Cat Vicknair, and Mr. Joel Hirshhorn was the attorney.

Q All right.

Now, on September the 10th, if you will recall that day--

A Yes, ma'am.

Q --was that trial still in progress?

A Yes, ma'am, that trial was still in progress.

Q Did you make a call to Bill Borders on that morning?

A Yes.

Hastings - direct

Q Why?

A If you ask me outside the parameters--meaning the aura of what is going on here--I would perhaps have had some recollection.

But I know specifically now, definitely, that I called William Borders at 9:30 a.m. in the morning of September 10th.

Q Judge, do you have a copy of the chart that the Government has been using throughout the trial?

A Yes, ma'am, I do.

And I believe I showed this to Mr. Weingarten earlier. Yes, ma'am.

Q I believe there is no objection to you referring to it to refresh your recollection.

MS. WILLIAMS: Should there be a problem?

MR. WEINGARTEN: Certainly none from the Government.

I would suggest if the chart is going to be used that the larger chart should be assembled so that the jury can follow.

THE WITNESS: I can follow this and I can--

THE COURT: Well, just a moment.

Are you going to be referring to this chart?

MS. WILLIAMS: Not really, your Honor. Judge Hastings is going to be testifying about what he was thinking and what he was planning, not necessarily going by that chart per se, though from time to time I will ask him about a call that does--that is reflected on the chart.

MR. WEINGARTEN: My suggestion is simply, if the chart is going to be used, I think it is a good idea to have the jury to have access to the larger chart that has been prepared and introduced and accepted into evidence.

THE COURT: And the Court understands that Judge Hastings will be referring to his small copy of the big chart?

MS. WILLIAMS: Yes, from time to time, if necessary.

THE COURT: Is there any objection to having the large chart set up so the jury can follow?

MS. WILLIAMS: I don't see the necessity but I do not object.

THE COURT: Fine. I understand the Government requests that?

MR. WEINGARTEN: Yes.

THE COURT: Is there any member of the jury that cannot see the large chart, now?

Probably not.

(No response)

MS. WILLIAMS: Thank you, Your Honor.

BY MS. WILLIAMS:

Q Judge Hastings, on the morning of the 10th, the Government has shown that you made a call to Bill Borders.

A Miss Williams, let me correct you. The Government didn't demonstrate that. I did.

Q You did. I stand corrected, gladly.

A Yes, ma'am.

Q Thank you.

MR. WEINGARTEN: Your Honor, excuse me.

MS. WILLIAMS: Just a moment--

MR. WEINGARTEN: I believe the evidence was that we introduced that evidence, we put it on the chart and I would object to that answer and ask that it

be stricken.

THE COURT: The answer will be stricken.

BY MS. WILLIAMS:

Q Somebody proved, Judge Hastings, that you called Bill Borders on the morning of September 10?

A Yes, ma'am.

I called Mr. Borders on the morning of September 10.

Q Why did you call him?

A I called him because I had previously arranged with him that he would pick me up in Washington on that particular day when my travel plans were made along with Mr. McCrary. How I got to talk to him, Mr. Borders called me. He was here in Miami at Mr. McCrary's office some time in the latter portion of August and I would think either the third or fourth week of August, is when I advised him that I was going to be in Washington on the 10th and that Mr. McCrary was going to be coming in on the Saturday following the 10th.

I indicated to him either then or at some other time what my travel plans were and I called him specifically for the reason that I--the Vicknair trial was in progress and I knew that I was not going to be able to go to Washington and I believe the message that

I left for him was, "I am not coming to Washington, today. Call me between the hours of 4:30 and five o'clock," or words to that effect.

Q Now, the arrangement that you had made with Bill Borders to pick you up on September the 10th was made some time in August when you spoke with him from Jesse McCrary's office?

A Yes, ma'am. He was here in Miami. That was originally.

Q Can you remember any other conversation that you had with Bill Borders during that call in August at Jesse McCrary's office?

A Yes, ma'am. I certainly can. He asked again about the financial consideration for Hemphill as he did in just about every conversation that I had with him, either by phone or in person.

And at that particular time he did so advise me that he might very well even be attending a family reunion during that period of time, but if I was coming in on the 10th there was no problem.

Q All right. Now, in August, when you spoke to Bill Borders, did you, at that time, know that a group of people were planning a boat ride for him in October?

A Yes, I did. I knew on August 24, or as

soon after the August 24 letter was received in my office from Miss Barbara Whiting, I knew that a boat ride was planned and soon thereafter, in a conversation with Bill Borders, but not the one here in Miami, I told him about that boat ride because I thought since Barbara told me it was going to be a surprise, that the surprise might be on everybody else knowing how Bill moves around a lot.

Q So, in August--

A I told him about the surprise.

Q --you spoke with him on at least two occasions?

A Oh, I am certain I did.

Q All right. Now, when you spoke with Bill Borders on September 10--we are back to that.

A Yes, ma'am.

Q --that morning, to tell him that you wouldn't be able to travel, did you make--did you reach him?

A Not that morning, I did not. And I left a message as I have previously indicated.

Q All right. When did you finally reach him?

A I ultimately talked with him some time

after five and the exact time as appears on the chart is 5:34 p.m.

Q What was the substance of that conversation?

A We talked about two or three things.

Q All right.

A One of them being my new travel arrangements for the date of September the 11th. The fact that he was certain that he was coming to his family reunion, we discussed. The fact that I was certain that I was going to stay at the Sheraton Washington Hotel, as well as the fact that Jesse McCrary was going to stay at the Sheraton Hotel and that both of us would be there throughout the weekend.

He indicated to me that he would pick me up and the only other thing that I can remember was that at some point, as was mine and his want to do, we discussed Hemphill again.

Q What did you say about Hemphill this time, in this conversation, do you recall?

A I am almost positive that--I really am not certain whether I told Mr. Borders in that meeting about Hemphill's meeting with the Chief Justice or did I tell him in Washington when I saw him subsequently,

but I do know that we talked about the money thing because that was uppermost in his mind and to be very honest about it, he was getting on my nerves about it.

Q All right.

Now, there has been evidence that Hemphill Pride was in Washington, D.C. at that time?

A Yes, he--

Q Did Borders tell him about that?

A Yes, he did. He told me that he had seen Hemphill that morning at the Channel Inn and he expected to see him, that Hemphill was en route to Atlantic City, New Jersey, and he expected to see him probably some time over the weekend or the following week when Hemphill returned.

Q When you went to Washington on the next day, did you expect to see Hemphill Pride?

A No, not necessarily because I was not told by Bill that he was going to stay there and wait for me.

I was told he was on his way to Atlantic City.

Q I see. All right.

Now, on the next day that trial that you were presiding in, what happened with it?

A It ended on September the 11th. You know, I think it's real important to understand that you don't recall every day--

Q I understand.

A -- of every week of every year, but these circumstances cause me to know the circumstances as well and the Felix Vicknair trial ended at I believe Miss Seymour has testified 2:40 p.m. in the afternoon.

Q Now, will you tell us about Friday the 11th as best you can recall? How did that day progress?

A Yes, ma'am.

THE COURT: Perhaps, it is eleven o'clock, and we should take a recess?

THE WITNESS: Thank you, Judge.

THE COURT: We will recess at this time for fifteen minutes, ladies and gentlemen. I remind you not to discuss the case during this recess.

(Recess taken)

Hastings - direct

(After recess)

(Jury not present)

THE COURT: While the jury is entering the courtroom, could counsel approach the Bench for just a moment?

(Sidebar conference between the Court and counsel as follows:)

THE COURT: The jury officer delivered to the Court a note from the jury which is so gratifying, unless counsel have objection, I would propose to thank the jury and perhaps read it in open court.

Counsel may read it at this time.

(Whereupon, the note was shown to all counsel)

MS. WILLIAMS: I certainly have no objection, Your Honor.

MR. RICHTER: Do you think we should do it with the jury here in the middle of all this?

MS. WILLIAMS: Why not? Do you see an adverse effect?

MR.WEINGARTEN: It is certainly gratifying. I am delighted to see it.

THE COURT: All right.

(Sidebar conference concluded)

Hastings - direct

(Jury present)

THE COURT: And, good morning again, ladies and gentlemen.

The Court has just received a note addressed to me signed by all sixteen members of the jury which is so gracious that the Court will read it at this time with your permission, ladies and gentlemen.

It's addressed to the Honorable Edward G. Gignoux. That must be somebody else.

And it reads as follows:

"We jurors wish to express our thanks to the United States Marshals assigned in the sequestering of this jury. To date they have performed their task in a highly professional manner and by this note all are hereby commended."

As I indicated, it is signed by all sixteen of the jurors, and I am confident the marshals will appreciate this and this will be preserved for the record in this case.

Thank you, ladies and gentlemen.

And with that, the direct examination may proceed.

MS. WILLIAMS: Thank you, Your Honor.

Hastings - direct

I believe there was a question pending, Your Honor, when we recessed.

Would the court reporter please read back the question, with the Court's permission.

THE COURT: Unfortunately, it was the other reporter.

Can you recall the question?

MS. WILLIAMS: Sure.

BY MS. WILLIAMS:

Q Judge Hastings, would you please recapture for us as best you can Friday, September 11, 1981?

A The Felix Vicknair trial was in progress. My reservations that had been made for quite some time before for the 10th that changed to the 11th were for the afternoon on Eastern Airlines, scheduled to leave, I know now, 3:48 and I left immediately after the Vicknair verdict and hastened to the airport, ran into an enormous traffic jam and thought that I was going to miss the flight as a result of same.

I got to the airport, checked in and the flight was considerably delayed. The airplane evidently had landing gear problems and the ground attendant kept coming back and back and back and back saying to the passengers that we would be leaving and he would be

saying in thirty minutes or we would be leaving and give another time, from 3:48 until some time nearer six o'clock, or shortly thereafter, was when the plane finally took off for Washington, D.C.

Do you want me to continue?

Q Sure.

A We arrived in Washington, I believe, some time shortly after eight o'clock, and when we got to Washington, there was a crush of sorts at the luggage area. It took me a good thirty-five or forty minutes to get my baggage.

My traveling companions were two lawyers from here in Miami, and we stood near each other throughout most of what amounted to this ordeal.

Perhaps I am ahead of myself. I called William Borders from the airport when the plane was delayed.

Q From the Miami airport?

A From the Miami International Airport charged the calls to my home telephone number in Fort Lauderdale. I called Shirley Ross from the Miami Airport and charged the calls to my home number.

I did not speak with William Borders on either of the occasions that I called, but I did speak

with Shirley Ross and the messages that I left for Bill Borders in essence reflected that I was delayed. "Flight further delayed." And the same message for Miss Ross. We had a previous understanding that we would have dinner together on that Friday evening and when I-- now if I can travel back to getting my luggage.

I got in a taxicab and I proceeded to try to get to Miss Ross' house. She lives, and I believe at the time lived -- I do not know the correct number of the address--but I know the street ever so well. It's Somerset Place and that taxicab driver and I were lost for a long time.

He was an African gentleman and I got to know him pretty good.

(Laughter)

I don't mean to be facetious, but we went in and out of the Walter Reed Hospital area four times and each time that we re-entered it, we were looking for a guard hoping that somebody would be at the gate and the entranceway that we went into, no one would ever be there, therefore we could not ask.

We stopped at a convenience store and we were sent on yet another chase. The second convenience

store we stopped at, I stopped and called--not stopped--but I called Miss Ross while he was in the convenience store, and I really had my tongue in cheek by this time because we were yet further delayed.

Ultimately, I arrived at Shirley Ross' place of residence, and I guess she was pretty much taken aback as well for it took her another ten or fifteen minutes before she came out and the cab driver and I continued our chat.

She came, got in the taxi, we went to the Sheraton. I registered at the Sheraton Washington Hotel as by previous arrangement I had indicated that I would. Rather matter of factly she made the reservation for me, and I had agreed that I would stay there and either confirm or make reservations for Attorney McCrary and we had dinner.

It was late and I remember very vividly that the waiter was a young black gentleman who was courteous and there were other young black and white waiters who were discourteous because of the lateness of the hour.

Evidently they were getting ready to close, and he was so gracious and I appreciated that very much for I had had a very frustrating day. He

Hastings - direct

served us. We had dinner and drinks and shortly or at some time after midnight, Miss Ross exited, I went to my room, I went to sleep, and that is the complete essence of the day of September the 11th as I recall it.

Not the most frustrating day of my life, but certainly a very exasperating day.

BY MS. WILLIAMS:

Q Judge Hastings, at the airport, did you run into or see Bill Borders?

A No, I did not see Bill Borders on September the 11th. I saw him on September the 12th.

Q Did you expect to see Bill Borders when you arrived at the airport?

A I had no such expectation for the reason that my last message was that my flight was further delayed and Mr. Borders had indicated to me that he was going to be at a family reunion and gave vent to the fact that had I been arriving earlier, that he would have been able to pick me up and deliver me to my destination and socialize or whatever and make his flight. I did not know then what his flight plans were and all I can say is I didn't expect to see him, and I did not see him.

Q All right. On Saturday, September 12th, were you still at the Sheraton?

A Yes.

Q Was there anything unusual about your stay at the Sheraton on Saturday, September 12th?

A Expensive.

(Laughter)

Q When did Jesse McCrary arrive?

A Well, I don't know when he arrived for I was not there when he arrived. I went to the drug store. I walked directly out the entranceway of the Sheraton and you walked down a very steep incline and there's a drug store right there and around that corner is a liquor store.

I went to the drug store and the liquor store and I purchased alcohol and I purchased toiletries for myself.

When I got back to the Sheraton, Mr. McCrary was there and by previous arrangement, we had adjoining rooms with a living area in between, and we socialized for all of the day of the 12th.

At some point during the course of the day, Mr. McCrary's daughter, who is a fledgling lawyer, and had graduated and was en route to Houston, Texas, came to visit, and a former law clerk of his came to visit and it's an easy day to remember, September the 12th because Mr. McCrary doesn't like tennis and while I can't play the game, I like to watch it sometimes, and it was the day that the young tennis player John McEnroe did all of the real bad cursing on television to the linesman when he placed some play he had made.

and he got real upset with the linesman.

That kind of attracted mine and Mr. McCrary's attention.

About 3:30 or 4:00 a young lady, named Pearl Dabreau came to visit me and Miss Dabreau is from Trinidad and is a medical technician, and I had met her on an earlier Eastern Airlines flight in the summer, either in June or July, and she was coming from Trinidad en route back to Washington, and had a bad cough and I had coughdrops.

I gave them to her and we chatted. On that flight with Miss Dabreau I met her fiancee, who is an attorney in Washington. We struck a fast friendship I guess because of the fact I am a judge and he is a lawyer and lawyers and judges do get to know each other that way.

Mis Dabreau arrived and we continued our socializing. She indicated she had left her sister, whose name is Margaret, and that Margaret was left at home alone and was kind of a shy person, and I urged, primarily for the reason that Margaret did not have her citizenship, that she invite her over so that we could make her feel comfortable as well.

An hour and a half or more may have gone

by before Margaret came. Mr. McCrary's daughter left because she had a previous dinner engagement. Attorney McCrary, myself, his law clerk, who I did not know her last name--it's Donna is her first name--Margaret and Pearl and myself had agreed that we would have dinner and we did in fact continue socializing through the evening until we were at some point tired of being in the room and decided that we were going to go to dinner.

Q All right. Did you receive a visit from Bill Borders that evening?

A Yes.

Q Would you tell us about that?

A I don't remember the exact time. It would be easy to construct it because I know now what time Mr. Borders left Florida, and I know what time his plane was to have arrived in Baltimore, but I did not know then and I don't have an independent recollection of the time with the exception of the fact that I know that it was late.

Mr. Borders came to the room. There was no phone call at all in advance of same. During that time, Mr. McCrary and I had called any number of people in Washington, D.C. that we either know mutually or

independently and we received no such phone call from Mr. Borders. He knocked on the door. I answered it and I turned immediately--I did not know that anyone in the room other than Jesse McCrary knew Bill and I said words to the effect, "Some kind of surprise," without trying to remember exactly what I said, but I was surprised to see Bill and we went through our usual kind of greeting, the shaking of hands, hugs and laughing and talking and I did make the comment to him that I thought he was at his family reunion and in typical Borders style, he chuckled and said nothing more about the family reunion at all.

We were all together long enough for all of us maybe to have yet another drink and him included. And he then became a member of those of us that were going to have dinner and ultimately we did and we had dinner, we had lots and lots of laughter and talk and fun, and at some point in time all of us went our separate ways and until the following day, I did not see Bill Borders any more, and then I awakened on the following day, circumstances occurred giving rise to my seeing him.

Q What circumstances?

A On the night of the 12th, Bill had

agreed that he would take Jesse and I to the airport. I was going on to Harrisburg, Pennsylvania, to the Pennsylvania Juvenile Officers Association on the morning of Sunday, the 13th.

I remember that day, the 13th, real well because the Pennsylvania people--Philadelphia was playing, and they won that day the football game, and there was a lot of big fun there in Harrisburg with the Pennsylvania people about that.

But Bill came on that particular morning and indicated that he, as he previously had stated on the night before, would be of the mind to take Jesse and I to the airport.

I recalled that we all had breakfast. I can recall but one period when he and I were alone. Mr. McCrary went to pay the bill and we left and we went to the airport and we gave him the whiskey that we had not utilized and we dropped a fifth of Chivas Regal then--that was cause for everybody to laugh--outside the hotel. We went to the airport. We got out of his car. Mr. McCrary and I went into the airport at presumably different locations because he was coming to Florida, my understanding was, and I was going on to Harrisburg, Pennsylvania, and somehow or other Mr.

McCrary and I ran into each other again in the airport but briefly and we said some more good business, and I had to be transported from that area to where the little putt-putt airlines that you get on that I am never happy about flying on for Allegheny Airlines--they are U.S. Air now--and I went on to Harrisburg and so far as I know, Mr. McCrary returned to Florida and I have no knowledge or idea where William Borders went.

Q Did you speak with William Borders on either Saturday, September 12th or Sunday, September 13th about Hemphill Pride?

A I certainly did. On both.

Q On both?

A Yes. The night of the 12th and on the morning of the 13th. We continued our discussions and I don't want to sing a song about it and let me just say that Bill was making me real tired about pressing me to try to do something, general effort to get money for Hemphill and he indicated to me that he expected to see Hemphill when he returned on route back to South Carolina from Atlanta City and in addition to that he told me that he would be in Miami, Florida, and that he would be at the Fontainebleau Hotel and I indicated to him that it would be on a day when he said, the 16th, that I had a judge's meeting and that normally I eat out, and I indicated to him that I would meet him. He said he would be with either a friend or friends and I don't recall which he said, as much as I have tried.

But that is what he said to me and he indicated that he would be there at 8:00. I told him that I would see him then and the express purpose

being for no other purpose other than to socialize. We had no business arrangement whatsoever.

Q Did he mention anything about the Leonard-Hearns fight?

A No, he did not say to me anything about the Sugar Ray Leonard-Tommie Hearns fight.

Q Did you have any knowledge that Bill Borders would be attending that fight--

A None whatsoever.

Q --on September 16th?

A I learned subsequently but on or before September 16th, no.

Q All right.

Judge Hastings, would you think about, for a moment, the conversation that you had with Bill Borders on October 5th?

A Okay.

Q Now, evidence has been presented that you called Bill Borders on October 5th at 5:29.

A Right.

Q Why did you call him--

MR. WEINGARTEN: Just for clarification, that is 5:12.

THE WITNESS: I didn't hear

Mr. Weingarten, Judge.

MR. WEINGARTEN: The time I think is incorrect. It is 5:12 p.m., just so the record is clear.

BY MS. WILLIAMS:

Q At about 5:00 in the afternoon, you called Bill Borders on October 5th?

A Yes, I--

Q Why did you call him?

A I called him, then, because on October the 4th, at some time in the afternoon, evidently he called my home and left a message for me with my mother and my mother was not clear as to what the message was, save the fact that he said something about Hemphill.

And again it had to do with matters that he and I had been in rather ongoing discussions about, either casually or directly, either in person or on the phone, about trying to raise money for him.

Q Between your seeing Bill Borders in Washington on September 12th and September 13th and your calling him on October 5th, had you had any other conversation with Bill Borders regarding Hemphill Pride?

A Yes. Sometime either on the 20th or 21st he called me and we spoke and I chided him about not coming to the Fontainebleau. I don't want to use "chuckle" again but a typical Borderism, he gave me no real explanation but did tell me that something had arisen whereby he had an opportunity to have tickets to go to the Leonard-Hearns fight and that he had gone.

And our conversation generally then was about the fight. I watched him. I am not a pugilist or necessarily a fan in fight detail, but we talked about it because it was an interesting event.

And again, his call had to do with was I going to participate in the offering with reference to Hemphill. And I don't remember the exact day. I do know that it was after our return from Orlando and after I spoke here at a Jewish synagogue and on the same day I spoke at a Methodist Church, AME Alpha Mike Echo Methodist Church in Hallandale.

So, it either would have been on the 20th which would have been Monday or the 21st that I would have heard from him with regard to that matter.

Q Now, in that conversation of October 5th you speak of letters--

A Yes.

Q --that you had drafted.

Now, when you used the word "letters," were you in fact referring to letters?

A I certainly was.

Q How was--I am sorry. Let me get the letters.

MS. WILLIAMS: Your Honor, do you want to see this?

MR. WEINGARTEN: We've seen it.

BY MS. WILLIAMS:

Q I hand you what has been marked Defendant Exhibit 29--

A Yes, ma'am.

Q --for identification, please?

A 29 is a plastic envelope and it includes letters. Yes, ma'am.

Q Were those letters written by you, Judge Hastings?

A Every one of them were.

MS. WILLIAMS: At this time, your Honor, I would move into evidence Defendant Exhibit 29.

MR. WEINGARTEN: No objection, your Honor.

THE COURT: There being no objection,

Defendant Exhibit 29 is admitted into evidence.

[Defendant's Exhibit No. 29 was received in evidence.]

BY MS. WILLIAMS:

Q Judge Hastings, are there markings on the letters other than your markings?

A Yes, ma'am.

Q What kind of markings are there?

A They are the initials, I believe, of certain Government personnel either in the FBI laboratory or special agents of the FBI that had an opportunity, pursuant to our instructions, to peruse these letters.

Q To peruse the letters?

A They went to Mr. Murphy and from Mr. Murphy to Washington for whatever purpose the Government sought to undertake.

Q Do you know what purposes they sought to undertake?

A Nothing more than what has been reported to me by Mr. Weingarten and that is that they did go to the laboratory. That is all.

Q All right.

Now, are these the letters to which you

refer in your October 5th conversation?

A Certainly.

Hastings - direct

BY MS. WILLIAMS:

Q Would you publish to the jury the contents-- How many letters are there?

A There are three.

Q All right.

Would you publish to the jury the contents of the first letter?

THE WITNESS: May it please the Court?

THE COURT: Is there objection?

MR. WEINGARTEN: No objection, your Honor.

THE COURT: There being no objection, that may be done.

THE WITNESS: Thank you, your Honor.

The first letter says:

"Hemp,

"Bill and I feel the following matters may be helpful to you now and in the future.

"If you approve, let me know and I will facilitate the preparation and mailing of the letters to our mutual friends.

"Blood, do you think we should ask

Hastings - direct

that character-type letters go directly to the Chief Justice and the Bar or do you prefer that they be sent to you for use as you see fit?

"Let me know what you think of both these efforts.

"My best wishes to your mother and Shirley. Please tell your mother that she is welcome to stay with Mom any time she feels up to getting away

"Talk to you soon, Blood."

And the other marking on here has "Him," in quotations at the bottom, and that came at the instance of a conversation about whether or not he was called "Hemp" or "Him" in a discussion that I had with attorneys.

A second letter:

"Dear Blank:

"Hemp is involved in trying to secure his licenses to practice law again.

"I have spoken with him several times regarding this matter.

"By this letter, I am asking you

personally to write to the South Carolina Bar Association Grievance Committee," and I put in parentheses a question mark, "and to the Chief Justice of the South Carolina Supreme Court at the following addresses.

"In your letter, please signal your analysis of Hemp, the lawyer and man, as well as how this dilemma has effected he and his family.

"Your personal observations may be very helpful to his future efforts.

"Please call me if you have any questions regarding the above. I trust that your good offices will expedite this matter.

"Very truly yours,"

and no signature appears on that letter.

The third letter:

"Dear Blank:

"As you no doubt know, Hemp is out of prison and back in Columbia. I move quickly to the point that he needs our financial help.

"In my conversations with him, he feels that we have extended ourselves greatly for him. Thus, he for one is hesitant to ask for help from some qaurters.

"Bill Borders and I have sort of agreed to help Hemp. We feel he would do the same for all of us.

"We are hopeful of raising at least," and I left the amount blank, "through this method.

"Please don't hesitate to call me or Bill with any suggestions you may have.

"In the meantime, would you please send a check to Bill's office at," and I left no address, for when I was on the Bench I did not have it in my head, "or directly to Hemp at," same thing, no address.

"The brother desperately needs our help. Please let's do it for him.

"Warm regards."

And that is the substance of this

Exhibit No. 29.

BY MS. WILLIAMS:

Q Judge Hastings, you said you wrote those letters on the Bench.

On what date did you write these letters?

A October the 5th.

Q Were these letters typed and mailed?

A No, they were not typed and mailed.

Q Would you explain to us why not?

A As I had previously indicated I said to Mr. Borders, and I had also at another point in time rejected categorically such an effort on behalf of Hemphill.

On the night of the 5th, I agonized at great length about sending these matters out as I had indicated to Bill Borders that I would, and primarily I determined that it would be inappropriate for me to send them, at least with my blessings, either to Hemphill or Bill.

And I knew that Hemphill was going to be in Washington. I knew that the affair for Bill was being held and I determined, among other things, that it would be best for me to set the record straight once and for all about trying to raise money for Hemphill, which I didn't frown upon but I frowned upon sending out a letter over my signature having to do with general fundraising that might cause lawyers and other persons who might be litigants before me to come into conflict.

I had no hesitancy whatsoever about calling personal friends of ours to raise money for Hemphill and that is exactly what I intended to tell he and Bill.

A No, I was not speaking cryptically when I spoke of letters.

Q Judge Hastings, would you have spoken cryptically or otherwise on the telephone about matters that you perceived to be personal or private matters which you did not want overheard?

A I wouldn't have any occasion, number one, to have to speak cryptically over the telephone.

And I can tell you on October the 5th that I would not have spoken on my telephone about anything that I did not think that it was being listened to.

Q All right.

Judge Hastings, are you saying that you felt that someone had tapped your phones?

A In my mind, there was no question about it.

MS. WILLIAMS: All right. Just a moment.

MR. WEINGARTEN: May we approach the Bench, your Honor?

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

THE COURT: Yes?

Hastings - direct

I might add that Hemphill didn't know at least about the financial aspect of this particular matter. The character letter was of no great concern because it did not seem to be of pressing urgency, anyway.

Q Were you able to have the conversation with Bill and Hemphill that you had envisioned in Washington?when you went up on the 9th?

A No, I was not.

At some point during the course of the day, Bill was arrested and when we were in Hemphill's room we were there but for a limited time.

When I was with Hemphill privately, as he has testified here, I did talk with him only about the character aspect, for I only had intentions of talking with he and Bill about the financial matters.

So, as it turned out, although I can't say that really, because I didn't talk about this particular effort that Bill Borders and I were undertaking, I certainly talked to him about money because I gave him some.

Q All right.

Then, in the October 5th conversation, were you speaking cryptically when you spoke of letters?

Hastings - direct

MS. WILLIAMS: Your Honor, at this time, we wish to introduce the paragraph from the prepared statement which pertained to Judge Hastings' belief that his phones were wiretapped.

THE COURT: What paragraph is that?

MR. WEINGARTEN: Are you just going to introduce that or the whole statement?

MS. WILLIAMS: Yes, I am--

THE COURT: This one? The one paragraph?

MS. WILLIAMS: No. You have it.

THE COURT: There are two paragraphs.

MS. WILLIAMS: Two paragraphs.

MR. WEINGARTEN: Could I see it, please, your Honor?

The Court might recall we introduced evidence that on this date, on November the 9th, at the Justice Department, Judge Hastings indicated to the Department of Justice that it was his belief his phones were being tapped. He indicated through this paragraph.

So I think I would be hard pressed to lodge an objection.

THE COURT: There are two paragraphs.

There is objection--

MR. WEINGARTEN: Yes, the second paragraph appears an embellishment of the first and I think the first paragraph properly is introduced in response to our evidence.

The second, I think--

THE COURT: You propose to offer this in evidence?

MS. WILLIAMS: Yes, I do, your Honor.

THE COURT: Has it been marked for an exhibit?

MS. WILLIAMS: No, not yet.

THE COURT: Will you have it marked by the Clerk and the Court will rule on the objection.

MS. WILLIAMS: All right.

THE COURT: Have it marked right now.

[Defendant's Exhibit No. 30 was marked for identification.]

THE COURT: It is marked as Defendant Exhibit No. 30.

MR. WEINGARTEN: We have no objection to the first paragraph.

MS. WILLIAMS: I do.

MR. WEINGARTEN: We have no--

MS. WILLIAMS: I hear you.

MR. WEINGARTEN: The second paragraph is irrelevant to whether or not he had in his mind the fact that he was wiretapped and whether or not he is going to challenge the Department of Justice; serves no purpose for this proceeding.

THE COURT: Ms. Williams?

MS. WILLIAMS: Your Honor, I think the both paragraphs go to the--this is the sum total of all that Judge Hastings said on November 9th regarding his belief that his telephones were tapped.

I think to separate the one paragraph from the other is not to give full vent to all that he was feeling and not to fully express his state of mind at the time on November 9th.

THE COURT: What is the date of this statement?

MR. WEINGARTEN: November--

MS. WILLIAMS: November 9th.

THE COURT: What year?

MR. WEINGARTEN: 1981.

THE COURT: Judge Hastings, the jury officers will take care of that, the Marshals will.

THE WITNESS: All right, Judge.

THE COURT: You may resume the stand.

THE WITNESS: Fine, Judge.

THE COURT: From what I understand, there is no objection to the first paragraph.

MR. WEINGARTEN: That is right, your Honor.

THE COURT: Which is numbered five. And that is admitted without objection.

The Government's objection to the second paragraph is sustained. It is not necessary for completeness. It contains matter which is wholly irrelevant to the issues in the present case.

Rule 403, it could be very prejudicial, mislead the jury, confuse the issues and so forth.

You may have this marked as 30. You may mark just the single paragraph which has been admitted as Defendant Exhibit 31 and that can be received for the jury's consideration.

Do you want time to prepare those now?

MS. WILLIAMS: What does your Honor mean?

THE COURT: Well, in other words, this document will not go to the jury, Defendant's Exhibit No. 30. It is preserved, of course, for Appellate

purposes.

On the sheet of paper, typed, is the paragraph which is admitted without objection, and that should be marked and as a separate exhibit and received in evidence without objection.

Do you want time to do that now?

MS. WILLIAMS: I suppose so, your Honor, yes.

THE COURT: Do you want a recess? All right.

This should remain with the--well--

MS. WILLIAMS: In addition to that, I would like to have made as part of the record the entire statement.

THE COURT: That is another matter, and we will take that up later.

How long will you need to have that typed?

MS. WILLIAMS: Ten minutes, I guess.

THE COURT: All right.

[Sidebar conference concluded and the following proceedings were had in open court:]

THE COURT: Madam Forelady, gentlemen of

the jury, it is necessary to recess for ten minutes while defense counsel prepare an exhibit.

I simply remind you, as I do in every recess when I can remember, not to discuss the case during this recess.

We will recess then for ten minutes at this time.

[Recess taken, after which the following proceedings were had in the presence of the jury:]

Hastings - direct

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

THE COURT: Now, this has not been identified. Excuse me. Defendant's Exhibit No. 30 has been excluded from evidence. Now, do you wish to offer Defendant's 31, the next exhibit? If so, let's have that marked.

MS. WILLIAMS: Could I make a suggestion?

THE COURT: Let's have this marked. Are you going to offer this as an exhibit?

MS. WILLIAMS: Could I make just one suggestion, your Honor, that instead of this being identified, that it be--

THE COURT: If you want to mark an exhibit, you mark it, but if this is what you are going to offer--

MS. WILLIAMS: This is what I have been limited to offer.

THE COURT: Well, that should be marked, then, as Defendant's Exhibit 31.

MS. WILLIAMS: 32?

THE COURT: Now, what do you want to do

with 32?

MS. WILLIAMS: I wanted to identify that this is the prepared statement that he offered to the Justice Department in November, and that this is from it.

THE COURT: What?

MS. WILLIAMS: I will have him identify this as the prepared statement that he presented to the Justice Department on November 9th, and then I would have him read this paragraph as a statement taken from the prepared one.

MR. WEINGARTEN: For purposes of identification, it is stipulated that the Defendant's Exhibit 32 is the prepared statement which Judge Hastings offered to the Department of Justice on November 9th. We object to its admissibility on relevancy grounds. We have no objection to Defendant's Exhibit 32.

MS. WILLIAMS: I do not expect to move to admit it into evidence. I want it to be a part of the record.

THE COURT: All right. Then it is a part of the record, Defendant's Exhibit 32, as stipulated is the written statement submitted by the

defendant to the--Department of Justice?

MR. WEINGARTEN: In Washington, D.C., on November 9, 1981.

THE COURT: November 9, 1981.

MS. WILLIAMS: Thank you.

[Sidebar conference concluded and the following proceedings were had in open court:]

THE COURT: Sorry for the delay, ladies and gentlemen. We are now ready to proceed.

BY MS. WILLIAMS:

Q Judge Hastings, I have just handed you what's been marked as Defendant's Exhibit 31?

A Yes.

Q Do you recognize it?

A Yes, ma'am.

Q What is it, please?

A This is a portion of a prepared statement that I prepared in preparation for a meeting with the Department of Justice, public integrity section, in Washington, D.C., at the triangle building of the Justice Department. I don't think it was the triangle building. I don't know the name of that little building.

Q And on what date did you go there, do you remember that?

A I don't remember the date, but I do know that it was, I believe, sometime in either late October or early November.

Q All right.

THE COURT: Of which year?

THE WITNESS: Of 1981, your Honor.

MS. WILLIAMS: At this time, your Honor, we respectfully move into evidence Defendant's Exhibit 31.

MR. WEINGARTEN: No objection.

THE COURT: There being no objection, Defendant's Exhibit 31 is admitted in evidence.

[Defendant's Exhibit No. 31 was received in evidence.]

BY MS. WILLIAMS:

Q Judge Hastings, would you please read for the jury the statement that is Defendant's Exhibit 31?

A Yes.

THE COURT: Without objection, that may be done.

THE WITNESS: Thank you, your Honor.

"Sometime before this investigation was made public in a full staff meeting I related to every member of my staff that I felt that my telephone at home and the phones at this office were being surveilled. Because of that, I encourage that they be very mindful of their undertakings."

Q Judge Hastings, when you say "this office", where are you talking about? What offices are you talking about?

A I am talking about the chambers that exist here in the office that I call my office on the third floor, 327, where there are four distinct lines situated there in that particular office and any number of phone stations.

Q Judge Hastings, from which one did you make your call to Bill Borders on October 5th wherein you mentioned letters?

A Ms. Williams, I really don't know. I usually in the office use 350-4279.

Q Judge Hastings, not which line, where were you when you made the call to Bill Borders?

A Oh, in my office, standing up, in a

hurry.

Q The same offices to which you refer in the statement you just read?

A Oh, yes, ma'am, on the third floor.

Q All right.

The same office that you cautioned your staff by not to be mindful about what they said over the telephone?

A That is the only office that I have had here short of a very limited period of time that Judge Davis and I began our tenure here in the basement of this same building.

Hastings - direct

Q Then, Judge Hastings, I ask you, would you make a call from your office phone and make statements which you did not care to have overheard?

A I wouldn't--based on all the circumstances leading up to this, there's no way in the world that I would have made any kind of call if I was trying to be cryptic and I had no cause to try to be, and that just wouldn't make sense to me.

The answer is no, no way would I make any such call.

Q All right.

Judge Hastings, is there any connection between the letters that you wrote and your understanding of what happened between Hemphill Pride and the Chief Justice of the Supreme Court?

A Yes, ma'am.

Q What is the connection?

A These letters are in direct response to mine and Mr. Pride's conversations regarding his meeting with the Chief Justice of the South Carolina Supreme Court. Not every one of them, the financial one, that Bill Borders and I had had some discussion about is not a part of that consideration, but the character references was something that I suggested to Hemphill

would be beneficial for either the Chief Justice or whoever it was, whenever it was, that he was going to seek to have his licenses restored.

If it was in any process, it could not have hurt him at all. And for that specific reason, I drafted the character references that indeed I would have sent generally to not only friends of mine but friends of either Bill Borders' or Hemphill's had I been supplied the appropriate information from him with regard to it.

It was in direct response to his meeting with the Chief Justice and what he advised me was the substance of that meeting.

Q Did you visit the Chief Justice of the Supreme Court of South Carolina?

A I certainly did.

Q Did your visit have anything to do with giving you direction as to what should be done to aid Hempy in the restoration of his license?

A It certainly did in one sense of the word.

MR. WEINGARTEN: Excuse me, please. May we approach the Bench?

THE COURT: Counsel may approach the

Bench.

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MR. WEINGARTEN: I believe this is exactly the same area that we objected to before and the objection was sustained.

MS. WILLIAMS: I am trying to establish the relevance, your Honor. His objection was on the basis of relevance.

THE COURT: Which meeting are you referring to?

MS. WILLIAMS: There's only one meeting that the Judge had with the Chief Justice of the Supreme Court.

THE COURT: Which was when?

MS. WILLIAMS: Which was in 1982.

THE COURT: Do you remember the month?

MR. WEINGARTEN: I believe it was July.

MS. WILLIAMS: July.

THE COURT: July, '82, and that is the meeting which was discussed in chambers earlier this week?

MS. WILLIAMS: Some portion of it, yes,

your Honor.

MR. WEINGARTEN: It was discussed at the Bench about an hour ago.

THE COURT: You object?

MR. WEINGARTEN: Yes. At least I think we should have a proffer. I mean, we objected to this not an hour ago and the objection was sustained.

MS. WILLIAMS: I was unable at that time, because we had not gotten to the letters which are directly related to the Judge's meeting with the Chief Justice of the Supreme Court, and now we have gotten to the letters which are directly related and I fail to see where the objection, based on relevance, is still warranted.

THE COURT: Excuse me. I understand from the discussion of this in chambers at the time when the defendant indicated that he was to make arrangements to have the Chief Justice brought here for trial and he was reluctant to come, that the defendant stated that he had personally talked to the Chief Justice last summer.

The Chief Justice told him certain things, and then when the defendant left the chambers and called the Chief Justice, he came back and said

the Chief Justice had apparently said that he had no recollection of the meeting and--right?

MS. WILLIAMS: I am not getting into all of that. The only thing I want to do is establish the Judge's state of mind as regards his thinking about the Chief Justice's involvement in Hempy's efforts to get his license restored.

THE COURT: But this meeting was held last July, I mean, July of '82?

MS. WILLIAMS: Right. He was still seeking to understand exactly what it was that could be done for Hempy to get his license restored.

MR. WEINGARTEN: The state of mind of Judge Hastings in July of 1982 is irrelevant, and we base our objection on that.

THE COURT: The objection is sustained.

[Sidebar conference concluded and the following proceedings were had in open court:]

MS. WILLIAMS: Thank you, your Honor.

BY MS. WILLIAMS:

Q All right, Judge Hastings.

Let's move to another area.

A All right.

Q On October 8th, you had a conversation with Bill Borders?

A October 8, 1981?

Q October 8, 1981.

A Yes.

Q Do you recall that conversation?

A Yes, I do.

Q How did it come about?

A I was at Albany State College for the purpose of speaking to a "Back to Basics" program, having been invited there by a fraternity brother of mine named Cornelius Grant who had been told by Jessie McClary, who had spoken there, that I might be a good speaker.

Jessie and I do that. When we go to a place, we urge each other on, and Cornelius invited me to speak there in Albany sometime in either June or July previous to October the 8th.

While in his office, that is, Dean Grant's office, while in that office, I called Bill Borders and indicated to him that I indeed would be attending the gala affair that was established for him on the night of October the 9th. He indicated to me that he would pick me up from the airport. I gave

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Hastings - direct

him my flight arrangements. I told him that I had originally--and I believe Miss Betty Williams, my secretary, had made a reservation for me at the Washington Hilton Hotel.

I expressed to him that I had tried to get into the L'Enfant Plaza Hotel, which was my preference because my understanding was that, one, Hemphill was going to be staying there, and, two, that it was going to be very close to the boat ride and that would have made the circumstances substantially easy.

He related to me in that October 8th conversation that he could arrange for me to stay at the L'Enfant Plaza. I said to him, if he was unsuccessful, that it would be okay, but that I would be at the Washington Hilton if he was unsuccessful.

BY MS. WILLIAMS:

Q Did there come a time, Judge Hastings, when you thought that you would not be able to make the October 9th gala celebration?

A More than one time, there came times that I thought that I was not going to be able to make it, and for more than one reason.

Q Would you tell us about those reasons?

A During the trial that was in progress on October 9th, which I believe was the United States of America versus Dominic Cinterelli (phonetic), Mr. Mike Owens was for the prosecution and Mr. David Rosen was defending Dominic Cinterelli.

In the course of that trial, it developed that the trial may go further and I recited, I believe, on the record that I had committed myself to go to Albany State College, and I feel very committed to that effort and that is helping predominantly black colleges in this nation, and I was not going to relent on going there, but I was also not going to relent on my overall responsibilities as it pertained to that case.

So I told the lawyers and the jury that I wanted to go to that speech but that if need be, I

would leave on October the 8th from Albany and return here to Miami on October 9th to complete that trial if it became necessary.

The other reason was I didn't feel good and we had been in perhaps one of the more intense periods in my tenure as a judge in terms of the overall responsibilities that were attendant during that particular trial and leading up to it.

I had genuine concerns about my help. My ear was hurting me, and I just generally was run down and so much as expressed so as late as Monday before going to Albany State or onto Washington, I expressed to Betty Williams, my secretary, that very, very hesitantly, because of my bad feelings and the trial, that there was even the possibility that I was going to have to call Cornelius Grant and cancel the speaking engagement that I had made some six or seven months or committed myself to go to. I weathered that storm in that the trial did conclude and I did manage to go to Washington and I was calling Bill Borders expressly for the purpose of indicating to him that I did think that I could be there at that time.

Q All right. Thank you.

Now, when did you learn of the October

9th boat ride that would be honoring Bill Borders?

A In August I received a letter from Miss Barbara Whiting and the substance of that letter was that a boat ride would be held for him on the 16th of October.

Subsequent to that, I received yet another communication from her reciting, among other things, that there were a number of judges in Washington who were going to be at a conference and because of that she, along with the other persons, Marvin Arrington, the president of the Atlanta City Council, and Miss Carline Howard, who seemed to be coordinators, had determined that they would change the affair to the date of October the 9th.

Before that time, upon receipt of Miss Whiting's letter, requesting that I be a sponsor and sponsorship required sending $100, I sent a check some time after August 24th, either on the 26th or the 27th of August, back to Miss Whiting indicating that I would accept sponsorship responsibilities, whatever that was.

Q All right. Now did you make any arrangements with Bill Borders regarding travel arrangements for October 9th?

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Hastings - direct

A I made no advance, say, call Mr. Borders and do anything more than what I did on October 8th, but if you know Bill Borders, a lot of things do transpire and you get to talk with him on occasions as you travel and he has said to me, as I am sure he has said to others, and that I have said to others unrelated to William Borders, that at any time I was in Washington D.C. or going to be there, if I would give him a call and he was there, he would be delighted to pick me up from the airport.

Q And thus the October 8th call?

A That was the primary purpose. The other purpose was in some fashion to either bring up--and he did beforehand, the L'Enfant Plaza Hotel.

Q All right, and did Bill pick you up at the airport?

A Yes, he did.

Q Now, would you tell us what you did after he picked you up at the airport?

A It has been established, and I do remember independently, that I arrived at the Washington National Airport at 10:40 a.m. because I was looking at my watch and the plane touched down at exactly 10:40 a.m. by my watch and Mr. Borders was there alone. He

had a newspaper in his hand and he gathered one of the bags that I had and took that bag and we exited the airport, got in his car. He was parked in a parking lot. If you were facing the airport, he was parked to the right.

We got in his car and proceeded to the L'Enfant Plaza and at the L'Enfant Plaza, we evidently had been checked in and we didn't even have to go through the registration process itself, and I thought that a big curious and mentioned it to him at some time during the course of the day, but he indicated to me not even to worry about the room, that it would be taken care of.

Hastings - direct

Q Once you got to the L'Enfant Plaza and you were checked in, then what did you do?

A Miss Barbara Cruel, who is the manager of the outstation there at the hotel, had received some flowers from Bill Borders. The day before evidently had been her birthday. And she either acknowledged that and/or acknowledging my presence and Bill Borders' presence, determined that she was going to assist us in going to the area to determine whether we were satisfied with the arrangements that she had made.

My understanding was that Mr. Borders had made a reservation for a room for me, and Miss Cruel, independently, made the judgment that no doubt we'd be satisfied if we had adjoining rooms. She so much as asked me and Bill Borders if that was satisfactory and I indicated that it was, so far as I as concerned, and I believe he did the same.

We then went to the room, and being accompanied by Miss Cruel and a gentleman who was a white gentleman and a very fine one named Jerry that was a bellhop, he went up to the room with us carrying my belongings.

Mr. Borders had in his hand a tuxedo in

some kind of a case but I could determine that it was a tuxedo and for the very first time I understood, then, that the affair was going to be, when I put the inquiry to him, a formal affair. I did not have formal attire. I did not feel particularly well and sometimes in Washington, when you run out to try to get a tux you are not quite as successful.

And on a Friday, what with the number of events that take place in D.C. I wasn't up to that task. I had done that before in my life.

So, I indicated that I wasn't going to wear a tuxedo and that I had a black suit that I had worn the day before in Albany. But I sweated a lot when I spoke and Miss Cruel said she could have it cleaned and back in the room for me in time for the affair.

We went inside the room. I now know that it was the Pierre suite. I do not have an independent recollection of that time one way or the other. I do recall that I did, at some point during the course of the night, pay attention to the name of it, Pierre, and I took the suit out.

Miss Cruel took a bag from out of the closet, put the suit in it and she and Jerry, after she

Hastings - direct

gave me--we went into the basic huge middle area between my room and where Mr. Borders' room would have been, and on a short of antique table was a telephone and she placed a call downstairs and got Mr. Pride's telephone number upon my request, after having told me downstairs when I put the inquiry to her that he had checked into the hotel.

She gave me the phone after dialing it and I spoke first with Mr. Pride, and from there Mr. Borders had gone into the bathroom, put his tuxedo in the closet, came back out. Miss Cruel and Jerry left.

Mr. Borders and I went--I don't know whether it was up or down. I don't quite have an independent recollection. I heard it both ways. But wherever the floor was that Mr. Pride was on we went to that floor and we had a very brief get together with Mr. Pride and his family.

And there was conversation and exchange of greetings.

Q All right.

Was there--were any plans or arrangements for the day made while you were in Hemphill Pride's room?

A Well, since it is so important perhaps I should tell you when we got to the room we knocked on the door. Mr. Pride had a towel wrapped around him when the door was opened but it was a good thirty seconds or more before the door was opened because evidently Shirley Pride, Mrs. Pride was not properly attired.

Hastings - direct

And when she came to the door Hemphill's bathroom door was right as you enter the room; he had a towel wrapped around him and shaving cream on his face. And he came out and he embraced me and he shook Bill's hand.

We went on into the room.

The baby was all over the place and I had not seen the baby and I--at least for quite some time, not as a toddler. I had seen him when he was a knee baby.

I picked the baby up and went through routines that people do with children. I saw some grapefruit juice on the table and I asked Mrs. Pride about it and it was for the baby, she told me. She was messing around with luggage that was on the bed and I asked her did she have any aspirin and she said "Yes," and I took an aspirin or two with the grapefruit juice that she permitted me to have.

Pride ultimately finished up his chores, came into the room.

We had very general conversation. We talked about where the boat ride was going to be and could Bill point it out to us. He indicated that he would pick us up at 6:30 p.m.

I fussed with him about it because I thought that it was a day for him and I didn't think it was warranted that he should be just worried all day long about picking people up and carrying people and seeing to it that people are properly delivered.

He made no big deal about it. Hempy invited me to go with him to shop for what he told me was the baby. I indicated that I didn't feel particularly well and if I was going to leave the hotel the only thing that I would do would be to go to a luggage store for, at that time, I had two crippled pieces that I was carrying with me and I would like very much, if at all possible, to see to it that certainly one of them I had fixed.

Bill volunteered that he would take me to a luggage store and we left each other with the understanding that he would be back to pick us up.

Bill Borders and I left Hemphill's room, went back downstairs and got the appropriate things that I wanted to carry with me to the luggage store and proceeded to get in his car and leave the L'Enfant Plaza Hotel.

THE COURT: Ms. Williams, it's time for our luncheon recess. Is this a convenient time?

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MS. WILLIAMS: Pardon me?

THE COURT: Is this a convenient time?

MS. WILLIAMS: It is a convenient time. Yes, your Honor.

THE COURT: Now, ladies and gentlemen, we will recess for lunch at this time, an hour and fifteen minutes. That will be 2:00 by the courtroom clock.

Have a very pleasant lunch and remember not to discuss the case.

[At 12:45 p.m., a luncheon recess was taken.]

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AFTERNOON SESSION

(The trial reconvened at 2:05 p.m.)

(Jury present)

THE COURT: Good afternoon, ladies and gentlemen.

Good afternoon, counsel.

(Replies of "Good afternoon, Your Honor.")

THE COURT: And I hope the ladies and gentlemen of the jury had a satisfactory and satisfying lunch.

Would counsel approach the Bench?

(Sidebar conference between the Court and counsel out of the hearing of the jury as follows:)

THE COURT: I am a little bit puzzled, but I think I should bring this to counsel's attention. This was delivered to my chambers this noon. It is a communication which I am holding in my hand in reference to a Donald M. Hill, formerly, it appears, of Ohio, and it gives an address here in Miami, Florida, which has no direct bearing on any of the present testimony, but does relate to the case and the defendant. I'm going to deliver this to the Clerk and counsel can read it at their convenience. My practice is that any ex parte

communication from anyone to the Court is, of course, inappropriate, but counsel should be advised of it. It needn't disturb the present testimony in any way, and the Clerk will have it and you can read it. He establishes himself as a noted--I'm sorry, no, he works with -- he describes himself as a psychic and works with another noted psychic in Fort Lauderdale.

MS. WILLIAMS: Your Honor, does giving it to the Clerk make it available to the public?

THE COURT: This will not be available to the public unless counsel wish it to be.

MS. WILLIAMS: I don't even know the contents of it, but I'm pretty sure I don't want it available to the public. Thank you, Your Honor.

THE COURT:

To avoid any possible problem in that respect, I will simply keep this in my chambers. If counsel wish to see it at any time, why they may.

MS. WILLIAMS: All right. Fine. Thank you.

(Sidebar conference concluded)

THE COURT: And we are ready to proceed, Miss Williams?

MS. WILLIAMS: Yes, Your Honor. Thank you.

Thereupon:

ALCEE HASTINGS

resumed the witness stand in his own behalf and, having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION (Continued)

BY MS. WILLIAMS:

Q Judge Hastings, when we recessed, you were just leaving the L'Enfant Plaza Hotel with Bill Borders.

A Yes.

Q Where did you go when you left the L'Enfant Plaza?

A If I did not make it clear, when we left Hemphill's room, we went back to my room and then immediately from there to his car, the express purpose being for him to take me to a luggage store as he had volunteered to do.

We turned, as you pass out of the L'Enfant Plaza (indicating), and I am making sort of a semi-circle for purposes of the record--we turned immediately right and then left and down that street. Borders said to me that he had a trial--I repeat--a trial before Judge Scott and I said, "A trial on a Friday afternoon?"

And he said, "Yes, a trial."

Hastings - direct

I said, "Well, I don't believe that Judge Scott or anybody else is going to start a trial on Friday afternoon," and we talked back and forth about that, and he said he had hopes that it would be some kind of hearing and he said that it would be starting some time that afternoon. Sort of without warning, when we got into the area of the court, he made a U-turn and parked at the second parking meter, and I teased him about that, I said, "They must have known that Mr. Borders was coming."

We went into the courthouse. I saw an attorney that I know that I was in law school with at Howard University whose name is George Mitchell, who is now a judge at that same courthouse, but was an attorney.

He introduced me to a gentleman--George is real tall. I only remember the gentleman being short, and his name being Donald. Borders went past the United States Attorney's Office and into the first courtroom on the right.

I told George, "Hey, you know, Bill disappears. Let me see if I can catch up with him," I went behind him and while in the courtroom, I could see Bill standing over like a clerk's area flipping papers.

I stood behind the Bar. He went then like in an area that would go to a judge's chambers, and when he did that, I went back out of the main entrance to that courtroom and back down the corridor to speak with George Mitchell and the same fellow, Don.

Borders ultimately came. We all exchanged very brief conversation and he and I exited.

I saw another attorney that I know whose name is Jesse Dedham, and we had a specific conversation about him because Bill said that Jesse was over 70 and I commented that he really did not look it, and he said something about, "He's still minting money and still going to court very day."

We got in his car. He then proceeded to turn back from the "U" in another "U" and we went to a liquor store that is, I believe, the W & W liquor store.

He had evidently made previous arrangements. He said nothing to me when we left the courthouse about going to the W & W liquor store. We got there. He introduced me to the owner, and he insisted for some reason that I should meet the owner, and he evidently had his liquor all ready and his chasers and everything.

It was like five or six cartons. And the

reason that I remember that is that the fellow that put the stuff in the car was a guy named Al, a fellow a little bit shorter than me, and we were teasing about it, and I was trying to help him in the trunk of Bill's car, and I made a speaking bet --not actual bet--to him that he wasn't going to be able to get all of the stuff in the car, and he did, and I lost the speaking bet.

Borders and I continued on. My thoughts were that I would ultimately get to a luggage store and he said nothing to me about going to his office. We wound up at his office, and I went inside with him and as soon as we got inside, I went to the men's room, which is on the ground floor, but shortly after having a conversation with Cynthia Rogers, the secretary that was there at that time, she offered me some coffee.

I indicated to her that I didn't care to have any. I'm not sure whether that was before I went into the bathroom or after I came out of the bathroom, but I do remember her offering me coffee.

And she handed Bill Borders either four or five pink slips from a message book, and my understanding of that is that she was giving him messages that evidently had come in.

When I came out of the men's room, he was on the phone and if you come out of his men's room, Cynthia's desk being like here, you could see him in what might be called a conference type of library area, on the phone.

He stayed on the phone without me trying to remember exactly how long, but very, and I did see him dial more than one time.

After that, he came out into the area where I was with Cynthia. We turned and walked back into the library/conference area and he said to me, "I'm running out of time." and I said to him, "Well, hey you know, that's fine. Point me out to the luggage store."

He walked back out and he had parked at the rear, if you can recall Agent Bird's graphics, he had parked his car, I guess, where he would always park it, at the rear of the back entrance to the office of his and Cobb's and Williams'

We got outside. I got the items out of his car that I had with me, and he pointed me in the direction of how to go down New Hampshire Avenue to the location where he said that I would run into a luggage store. En route there, I undertook casually to do some

Hastings - direct

other things that I had on my mind because I ran into the Kramer Book Store.

Q When you exited Bill Borders' office, did you pass anyone?

A Yeah. I passed a man that, if I was to see him again right now, I would make a bet that he was an FBI agent and the reason for that is that he had on a light blue windbreaker and I watched three young black chaps coming up the street and the gentleman had his windbreaker open, and I could see the pistol, and I thought there was getting ready to be a confrontation.

This is as I am walking in this way, he is standing like here, and the young fellows are coming up from this direction. (Indicating)

I saw a police car, a regular, I guess, Washington police car, but I could identify two police persons in it in uniform. I started to hail them and then my thought was, it's not my issue, and I continued walking on because I just felt that that might not be appropriate for me to get involved in.

The way he looked at me suggested that he even knew me, wanted to know me or should have known me and that may sound confusing, but I would know him if I saw him again, no question about it.

I proceeded then casually on down the street.

Q Where did you go?

A I continued down the street and I-- we dont have the graphics so I keep doing this (indicating), but anyway, the place that I arrived at next was an area where there were street concessions, but that's not uncustomary in the general area of Washington and the very first thing that I ran into was the Kramer Book Store.

Q Did you purchase anything at the Kramer Book Store?

A Yes, I did.

Q Judge Hastings, I hand you what's been marked Defendant's Exhibit 33 and Defendant's Exhibit 34.

A Yes, ma'am.

Q For your identification.

A Please.

Q Was there a bag with this?

A A bag?

Q Yes, there was.

And Defendant's Exhibit 35?

A Yes, ma'am.

Q Will you please identify those items?

A The bag, Defendant's Exhibit 35, is the bag that these books were placed in by the salesperson inside the Kramer Book Store.

Q Is there writing on that bag?

A Yes, ma'am, it says, "The Kramer Book Stores."

Q All right.

A And Defendant's Exhibit No. 33 is a book called "Duke, a Portrait of Duke Ellington by the author

Derek Jewell.

Defendant's Exhibit No. 34 is "The Whole World in His Hands," a pictorial biography of Paul Robeson by Susan Robeson, and I purchased both those books for my mother and that's something that I very frequently do when I travel, I purchase books for her. She reads them and then tells me what's in them and sometimes I get to read them and pass them on to, among other friends I exchange with, Attorney McCrary. We exchange books all the time.

MS. WILLIAMS: At this time,Your Honor, I would move into evidence, Exhibits No. 33, 34, and 35.

MR. WEINGARTEN: No objection.

THE COURT: There being no objections, Defendant Exhibits 33, 34 and 35 are admitted.

(Defendant Exhibits No. 33, 34 and 35 were admitted into evidence.)

BY MS. WILLIAMS:

Q Judge Hastings, are Defendant Exhibit Nos.33 and 34 the items that you purchased at Kramer Book Store on October 9?

A Yes.

Q All right. When you left Kramer's Book Store--

A Yes.

Q --where did you go?

A Not far from Kramer's Book Store on the same side of the street is a dress shop called Nickie Young. I did not know the area that well. I had been in Nickie Young's one time before. I was glad to see the store because Brenda Russell owned that store and her husband Daniel Russell and I have been friends for 17 years, since some work he did for the Rouse Company

in Port Lauderdale. And the reason that I was glad to see it was because Brenda is thriving in the downtown Washington area; not many black business persons are thriving at all, and it made me very pleased to run into the store.

Luckily, I did go inside and I did see Brenda and I spent some time there at the store.

Q Did you purchase anything at the store?

A Absolutely not. Not because it is a lady's store, but because it is pretty expensive.

Q Approximately how long were you in that store?

A Time starts to fogging up when you start talking about a year ago or two years ago, and it is difficult to tell the exact amount of time that I was there, but I was there long enough to attempt a few phone calls, to meet just about most of her staff, especially her manager, to have casual conversation with her and to mill around the store and be shown the trappings and the things, and fineries for ladies just as an aside.

And ultimately I asked Brenda to show me to a luggage store if she knew where one was.

Q And did she give you directions to a

luggage store?

A Yes, she did. She walked to the door, which is a double door on the left side of her store and pointed out to me where -- I only remember the name because she testified here that it was Camelier & Buckley. I did not, nor do I have an independent recollection, but she pointed it to me and told me one was very expensive on the same side of the street that her place was on, and then she pointed to an arcade across on the other side of the street and there was an Athlete's Foot, or some kind of a running shoes and tennis shoes store where the arcade was, and she told me through that area, on the other side of it was yet another luggage store that was a little more reasonable.

Q All right. Did you finally make it to the luggage store?

A I did.

Q Did you make any purchases at the luggage store?

A I first, at both Camelier & Buckley, and at what I now know is the Georgetown Leather Design, I sought to have the little man bag that I had stitched. They did not do that kind of work. And I purchased

another man bag at the Georgetown Leather Design.

Q Judge Hastings, I hand you what has been marked Defendant Exhibit 36 and Defendant Exhibit 37 for identification, please.

A Yes, ma'am. These are the bags, Defendant Exhibit 36 and Defendant Exhibit 37, one that I sought to have repaired, the other one that I purchased.

MS. WILLIAMS: At this time, Your Honor, we would move into evidence, Defendant Exhibit No. 36 and No. 37.

MR. WEINGARTEN: No objection, Your Honor.

THE COURT: There being no objection, Defendant's Exhibit 36 and 37 are admitted into evidence.

(Defendant Exhibit 36 and 37 were admitted into evidence)

BY MS. WILLIAMS:

Q Judge Hastings, will you show us the bag you were trying to have repaired?

A Yes, ma'am. But this was not the only thing that I had that was broken. I had another piece of luggage that has since done some other breaking up on me. But anyway, this was one of the pieces of luggage that I had, this right here.

Hastings - direct

THE COURT: Which Exhibit No. is that?

THE WITNESS: 36, Your Honor.

BY MS. WILLIAMS:

Q 36 is the one you were seeking to have repaired?

A Yes.

Q And 37?

A That is the one that I purchased. It is $99 and some change.

Q All right, thank you.

Upon leaving the luggage store, where did you go, Judge Hastings?

A I walked back through the arcade and I sought to catch a taxi on the side of the street that I was standing on then, there. It was obviously during the lunch hour because there was an awful lot of traffic.

And lunch hour in Washington is between 12 and 2. And during that period of time, each time I would try to hail a cab they would continue down the street. A traffic signal stopped a whole line of traffic and fortunately for me there were at least 13 or 14 taxicabs in a row. And I went against the traffic and ran down the whole line of them seeking out one.

And finally a gentleman that I had a very animated conversation with about bad driving, not his but his son's and other folks' bad driving, took me back to the L'Enfant Plaza Hotel.

Q And when you returned to the L'Enfant Plaza Hotel, did you go to your room or did you go elsewhere?

A I went to my room.

Q What did you do there?

A Downstairs in the L'Enfant Plaza Hotel I purchased a Washington Post newspaper and in my room -- as previously indicated I didn't feel particularly well, I brushed my teeth. I washed my face. I ordered some Fingerhut sandwiches and clam chowder. And I got in bed and started reading the paper waiting for the clam chowder.

It was ultimately delivered. I ate it and I got back in bed and continued reading the Washington Post.

Somewhere along the lines of that period of time I called my office.

Q And with whom did you speak when you called your office?

A I spoke with my law clerk, or Barbara

Katzen.

Q And for what purpose did you call your office?

A Primarily to let them know where I was. Miss Williams, Betty Williams, my secretary, knew where I was and my mother knew where I was to be.

When I saw knew where I was, I mean that both Betty Williams and my mother, who generally can put their finger on me anywhere in this country, both of them were of the impression that I would be staying at the Washington Hilton.

I began with my office by indicating to Barbara Katzen that I was at the L'Enfant Plaza. I gave her the room number and she gave me a message at that time.

Q And from whom was that message?

A Barbara Whiting, the same lady that was the major coordinator of the gala affair for Bill Borders.

Q As a result of receiving that message, what did you do?

A I placed a telephone call trying to reach Barbara Whiting and she was not at the number that I had been given. And my reason for calling her was Barbara Katzen had indicated to me that there was the need for me to make some presentation that night for Bill Borders and it was my first understanding that in addition to attending the affair that I was going to have to make some presentation.

I was glad to do so and I called Barbara to indicate to her that I would. I didn't reach her at what must have been her office number, but I honestly do not have an independent recollection of that.

I then called Caroline Lewis who I know knew Barbara Whiting. And I spoke with Caroline Lewis and she, in turn, gave me Barbara Whiting's telephone number.

I called Barbara Whiting and we had an exchange of greetings and she, then, advised me that she

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did want me to make the presentation and I indicated that I would.

Q Did you make any other calls?

A Not at that time.

Q All right. Then what did you do, Judge Hastings?

A I almost, at all of those times after the food, was about the business of reading the paper.

Q Did you have any visitors?

A Yes, I did.

Q That afternoon?

A My phone rang at some point in time during the course of the afternoon and Hemphill Pride made contact with me by phone and ultimately came to my room.

Q And when Hemphill arrived, what did the two of you do?

A He ordered the exact same thing that I had and the gentleman who was an Indian gentleman that delivered the food brought the wrong soup. And when he did, Hemphill is kind of a fussy guy, and I--well, he sent it back. And when the guy was going back to get the soup, I asked him to bring me just soup.

In the L'Enfant Plaza they have a snack

bar, you could call it, in each person's room, apparently, or in every one I had ever stayed in, and I stayed there before. And they give you an extra key other than your door key. You take things out, like a Coca-Cola or Ginger Ale or drinks. They have a well-stocked bar, free cold drinks, potato chips. Whatever you get out of there evidently someone comes along later and records what you have taken out and they charge you for it.

I took out a Coca-Cola for Hemphill and I had taken one out for myself. I poured a part of that for him and part for myself. When his meal ultimately was finished, we chatted idly for a while and he got fidgety and I determined the cause of that, that perhaps it would be wise if we went downstairs rather than coup him up in that room.

And we went into the lounge where it was certainly passed the lunch hour because in the lounge that we went in--it is either named the Apple of Eve--and it looks like an apple eye, but it was named the Apple of Eve, and the lady that waited on us was an Oriental lady and the luncheon behind the bar area was concluded. The chef was breaking down, and there was no service going on. So, I would think that whatever

their time for--period for lunch had concluded by that time.

We had two drinks, each, and he went to his room upon us finishing the two drinks, and I went to mine.

Q Did you hear from him subsequently?

A In less than fifteen minutes he called.

Q And what did he say?

A He said, "Blood, there has been an emergency. Come up to my room now."

Q And what did you do when you received that call?

A I had on boots when I arrived to Washington, some half-length boots, and they were hurting my feet. I had not unpacked a single solitary thing other than the kit for toiletries and the one suit that I had taken out of the bag. I had hung nothing up. I wasn't feeling like doing that. I took out a pair of shoes because I didn't want to put the boots back on. I had on the same shirt since coming up that morning and I took my time to take out of my bag yet another shirt.

I brushed my teeth and I took a Vitamin C. And I put on the same pants and casually went about

my business to go to Pride's room.

I really thought that some other fellows or girls, attorneys or other people that we know had arrived and that they had started a party. That is really what I thought, at the time.

Q All right. When you did see Hemphill Pride, where did you see him?

A At the elevator bank on the floor that he was residing on.

Q And what happened?

A He was with his son. He sat immediately --there was sort of like a loveseat but with no arms to it. He sat and he said to me, "Al, Bill Borders has been arrested by the Department of Public Integrity. And in some way it has something to do with some kind of bribe in your courtroom. And John Shorter has called and told me this."

I was literally taken aback. I was stunned, shocked. And I so much expressed that.

Hastings - direct

And I was almost like him. We were both in a state of, "What is going on?"

He indicated to me that, "We," he said, "have decided that you should get Ken Mundi to go with you. John Shorter had said that two FBI agents want to talk with you and you should get Ken Mundi to go with you."

And I said to him, "I don't need any damn lawyer."

And he said to me that they had made that decision and that it would be best for me to do that.

I said, "Well, who is Ken Mundi?"

And he told me how somehow or another Shorter and Ken Mundi knew each other.

I indicated to him that I was not about the business of speaking with Ken Mundi.

He never gave me any telephone numbers of any FBI agents. I do believe that he mentioned the name Murphy. I do not know the other name, if he mentioned one at all.

And then I sat down and I told him that I just had no idea as to what it was that was going on. And he said to me, "Listen, Al. I have been in trouble."

Those were his words. He said, "And I don't know what Bill has done or what you have done or if Bill has done anything or you have done anything. But I do know that if there is trouble that a man is best off," his words, "on his own turf."

He says, "I think you ought to go home and get you an attorney and be interviewed if you so desire"--not those words but words to that effect--"by the FBI in Florida."

I gave him no response. I was--I really and honestly was of the mind that there was some kind of a serious problem that I had best pay serious attention to.

Because Hemphill, although he is a prankster, there is a time that you know when he is not pranking. And I knew that full well. I got--

He went back to the room area with his son, and I said to him that I was going back to my room. He indicated to me that he would be coming right on down. I said to him, "Fine."

I got on the elevator and I even--I remember smiling and having small talk of sorts with him and indicating that I really don't know what is going on. Went either up or down, whichever was my

Hastings - direct

room, back to my room.

Q What kind of small talk were you having with Hempy at that time?

A I made the statement that if what he said was true then doubtlessly I would get a chance to visit Maxwell Prison like he had been. That is what I said and I laughed about it and he didn't.

QA All right.

So then, you went on down to your room.

What did you do when you got down to your room?

A The very first thing that I did, walked straight into the room and picked up the telephone and called my mother.

Q And when you called your mother, what did you learn?

A When I called my mother, she was--I do not wish to exaggerate--I have never known her to be as hysterical as she was. It is just that simple. And I couldn't calm her down.

She was trying to tell me what evidently she had learned from reporters, and I was trying to tell her what Hemphill had said to me, and I indicated to her that I was going to go and see could I find out

about Bill, what was happening with him. And she made the comment to me that Bill had enough friends in Washington, D.C., to see about him, "You come home."

I did not give her a response because I wasn't fully decided exactly what I would do at that particular point in time.

I told her that I would call her back and that I would also make some additional attempts at trying to find out a little bit more about what was happening.

Q Did you make any other calls?

A Yes, I did.

Q Had Hemphill arrived at your room by this time?

A No, he had not.

Q Who did you call?

A I called you.

Q All right.

And what happened there?

A I called you at your office at the Economic Opportunities Commission here at the Dupont Plaza Hotel and I learned that you had been interviewed by the FBI and the particulars, at least in part, as to what had transpired in your interview with

the FBI.

And in addition to that I learned that you had called my office and had learned that the FBI was there for the express purpose, among other things, of interviewing my staff.

Q Did you make any other calls?

A At that particular time?

Q Yes.

A I don't recall in that room making any other calls at that time.

Q Well, then what did you do?

A I had maybe a minute or two before Hemphill knocked on the door, and when talking with you and you told me the stories that had been portrayed to you, among them being that you had been identified as the person that had dinner with me and you had been--you were told that I was being interviewed at that time in Washington, and you were asked whether or not I had a boat or a vacation home and a Swiss bank account and a variety of details concerning the Fountainebleau Hotel and dinner and a number of visits of William Borders, and you did know him, my thoughts turned immediately to exactly what I know and have known for most of my career, that lawyers can do that are closely

affiliated with the judges.

Q And what is that?

MR. WEINGARTEN: Excuse me, I object and would like to approach the Bench.

THE COURT: Counsel may approach the Bench.

(Sidebar conference between the Court and counsel out of the hearing of the jury as follows:)

MR.WEINGARTEN: I sense that the answer we are about to get is that Judge Hastings came to the belief, at that time, that Bill Borders was pulling a scam on him or something to that effect. We would think that evidence is no more competent than other evidence on scams. What Judge Hastings may have thought about Bill Borders pulling a scam upon him at that time is not relevant evidence.

MS. WILLIAMS: Judge Hastings' state of mind, at that time, Your Honor, is very relevant, we believe.

THE COURT: It would appear to be.

MR. WEINGARTEN: Okay.

THE COURT: Is there objection?

MR. WEINGARTEN: Yes, there is.

Hastings - direct

THE COURT: It is overruled.

(Sidebar conference concluded and the following proceedings were had in open court:)

MS. WILLIAMS: Thank you, Your Honor.

BY MS. WILLIAMS:

Q You may answer the question, Judge Hastings.

A At that particular point in time you know it is sort of analogous to if anyone has ever had a gun placed in their face or if you have been in a car that was in a bad wreck or any life-threatening situation, this was similar, but different in many respects.

And you have flashbacks.

And I had all sorts of thoughts about Bill Borders because that is what Hemphill had indicated to me was the seed of the problem at that particular time, and something having to do with my being implicated.

Among those thoughts were recalling the peculiar way in which I had spent the early portion of the morning with him. That was one thing.

Knowing that I had been with him all day long gave me at least a funny kind of feeling.

And then I remembered more than that, how many times he had been in Florida and at least so far as I could determine, and others that I may have talked with, there was never any real purpose that we could identify with and I could identify with.

And I thought that something was awry. And it was then especially in light of my mother's condition, which was my priority concern, and coupled with the fact that you related to me what had transpired with you, and third, my staff being interviewed by the FBI, I figured that Borders might very well have created some kind of problem for me and my best bet was to go home and I did.

Q Did you make any attempt to call John Shorter?

A None whatsoever.

Q Why not?

A I had been told by Hemphill that John was en route to see about William Borders. But-- well, what I think now as opposed to what I did then, I don't think it would be important. I didn't call him.

Q All right.

How long was it before Hempy finally arrived to your room?

A I can't sit here and put a time equation inside that extraordinarily difficult situation. It's just impossible.

Q Fine.

A But I do know that he was not there when I called my mother and he was not there when I called you and when he called up to the room, he knocked on the door, and these rooms have peepholes in them, and I never bother to look through the peephole as if I was looking out for FBI or worried in that sense.

I flung the door open, and he came in and we were not there long. I didn't have but the books, the toilet kit, the books, and the Washington Post is what I put in my baggage at that time.

Q Did you make any arrangements regarding the suit you had left in valet?

A Yes, I did.

Q What arrangements did you make?

A I gave Hemphill money for it and I told him to get it for me.

Q After that, what did you and Hemphill Pride do?

A He carried one of my bags and I carried the other one, and we went down the elevator bank and into the lobby area of the L'Enfant Plaza Hotel, and he went to the taxi with me.

He has said here that he left me in the lobby of the hotel but that is not true. He put the bag he had in the back seat of the taxi and I put the one I had in the front seat and he said, "Take care of yourself," but before then, in the lobby, he had said that he would take me to the airport.

Q And how did you respond to his suggestion that he would take you to the airport?

A I declined and I believe the words that have been used, and I don't think that that is what I said, and I do not remember every word, as I would hope it's understood, I have not remembered every word of every conversation that I have related, but at the very same time I do know that my concern was that Hemphill was on parole and if in any way there was any kind of problem that Bill Borders had created, that he was with me, that he was going to be questioned, and quite frankly, I did not know for I had not asked

whether Hemphill even had permission to travel to Washington and that was my primary concern, to not have a whole whatever might explode, however it might explode, in his face and cause him grief, and for that reason I chose not to have him take me to the airport.

Q Did you consider--where did you fly out of Washington, or did you fly out of Washington?

A No, I did not fly from Washington.

Q Where did you fly from?

A As I related to the authorities on that evening when they spoke with me, I caught Flight 237 on Delta Airlines to Fort Lauderdale, Florida, but that was not my original purpose when I got ready to head home.

Q All right.

Now, it's been put in evidence that there was another airport that was nearer than the airport from which you left?

A Yes, ma'am.

Q Why did you not go to that airport, the nearer airport?

A There was never any question in my mind but that at that time in the evening I thought that all flights that left Washington, D.C. at that

particular point in time, either went through Atlanta en route to Miami, but I was absolutely certain that there were none until 10:00 p.m. I have caught that 10:00 p.m. flight so many times until it registered in my mind that there was none, that even after going to Miami would come up to Fort Lauderdale.

Now, my car was in Miami and that's obvious insofar as what I was thinking. But I thought that the 505 Delta flight from Baltimore Airport would put me in Fort Lauderdale and when I got to the Baltimore Airport, it would have, but it would have been at 9:00 at night, and I would have had to go through Atlanta, Georiga, en route there.

Q All right.

Did you consider that there might be FBI agents looking for you at the National Airport?

A It was of no concern to me for had there been FBI agents at the National Airport, Dallas, or at the Baltimore Airport, if they had approached me for the express purpose of interviewing me, I would have made whatever decision I wanted to make at that time.

I would hope that it is clearly understood that after twenty years of being a lawyer and

being a United States District Court Judge that I have as much fear as anyone alive about corrupting the courts, and for that particular reason, I feel that that shakes the foundation of this nation, and I had no desire or design to not cooperate with any authorities.

My express purpose was to see about my mama and it's just that clear.

Q Had you encountered the FBI agents at National or at the Baltimore Airport, would you have spoken with them at that time?

A It would be easy to say that now and I would prefer not to say that now, but I can say this, that I had no intention of failing to cooperate with them and at any such time as they made contact with me, I did in fact cooperate with them by talking with them.

Q When you arrived at the Baltimore Airport, what did you do?

A The very first thing that I did was go into the airport and call my mother, and en route there, I was able to see the monitors and make a determination that that particular flight that I had hopes of being able to catch I was really in a hurry I thought was going to carry me through Atlanta, so I

called my mama.

Q All right.

Judge Hastings, at this time I hand you what's been marked Defendant's Exhibits Nos. 38, 39 and 40 for your identification.

A All right.

Q All right.

What is Defendant's Exhibit No. 38?

A Exhibit 38 is a portion of a telephone toll record for the months of September and October and it's the itemized calls and billing for area code 305, 486-0733.

Q All right.

And what is Defendant's Exhibit 39?

A Defendant's Exhibit 39 is a portion of the toll record for the months of September and October, itemized calls for the telephone number, area code 305, 733-1697, which is the telephone number that I believe is yours, Ms. Williams.

Q And Defendant's Exhibit 40?

A Exhibit 40 is a similar telephone toll record and this is my phone number, 731-8176, and in the area code 305.

MS. WILLIAMS: At this time, your Honor,

we would move into evidence Defendant's Exhibit Nos. 38, 39 and 40.

THE COURT: Is there objection?

MR. WEINGARTEN: No, there is not, your Honor.

THE COURT: There being no objection, Defendant's Exhibits 38, 39 and 40 are admitted in evidence.

[Defendant's Exhibits Nos. 38, 39 and 40 were received in evidence.]

Q Judge Hastings, I direct your attention to Defendant's Exhibit 38.

A Yes.

Q Itemized call numbers 3 and 4, dated October 9th.

A Right.

Q From where is the call placed?

A The call is placed from Glenburnie, Maryland, and that's the location of the Baltimore-Washington Airport.

Q At what time is Item No. 3 placed?

A The time for it--if you will pardon me, I am having a little difficulty--4:37 p.m.

Q All right. Then is it fair to say that you arrived at the airport at approximately 4:37 p.m.?

A However long it would have taken me to get out of a taxi and to walk beyond the ticket counter on the other side to the pay telephone area.

Q All right. The first thing you did when you got to the airport was call your mother?

A Precisely.

Q And that toll record reflects that call?

A Yes.

Q All right. For how long did you speak

with your mother in that call in Item 3 on October 9th?

A On that call I spoke with my mom for four minutes.

Q Is there another call that you made to your mother on that date?

A Yes, there is. That call was at 4:43, roughly six minutes later, also from Glenburnie, Maryland, also from the same number that I was at 766-9846.

Q And what is the duration of that call?

A That call is two minutes.

Q Were these calls placed one after the other?

A Most assuredly.

Q Why is that so, Judge Hastings?

A When I called my mother initially, by this time rather ironically she was not in the same shape she was the first call that I made. She seemed a great deal relieved to hear from me, number one, and she was still to my mind eye upset. I could hear the 731-8176 number ringing and it rang incessantly throughout the four minutes that I spoke with her. I could hear repeated knocks that it would be difficult to say where they were coming from but they were loud enough for me to hear them and my mom would of necessity have to have

been standing in the kitchen where this particular phone is located or in her bedroom.

If she had been in her bedroom, and I don't know where she was, it would have been on the window and the door.

If she was in the kitchen, it was on the door and the outside of the little patio area, but it was extremely loud and she was commenting about the fact that the reporters and people had been calling repeatedly, including the fact that she had heard from you at some point during the course of that conversation.

We experienced extraordinary difficulty toward the tail end of the conversation and it happens very frequently to people that you get cackling and crackling and we could not hear each other. I suggested that I hang up and that I call her back and I did.

Q All right. Now, what was the substance of the conversation that you had with her?

A At that time, she advised me what little information she had and I told her in essence that I was going to try to contact you and get you to get there to attempt to assist her and, in addition to that, I explained to her that I was going to be catching a plane

as soon as I could to get to Fort Lauderdale.

Q All right. Did you give her a flight number at any point in time?

A Not the very first call, but the second call is when I indicated to her that I would make a flight reservation and at another point in time, I did give her a flight number.

Q All right. Now, I direct your attention to Defendant's Exhibit No. 39.

A Yes, sir.

Q Items Nos. 6 and 7 for October 9.

A I have it.

Q All right. For what phone number is that toll record?

A This toll record is your phone number, Miss Williams.

Q All right, fine. Now, from where was Item No.6 phone call placed?

A Item No. 6 was also placed from Glenburnie, Maryland, and it was at 5:06 p.m.

Q And what's the duration of that call?

A One minute.

Q And Item No. 7 was placed at what time, Judge Hastings?

A A minute later.

Q And what's the duration of that call?

A One minute.

Q Now, would you explain to us, Judge Hastings, that series of calls?

A Sure. I had tried from the time that I spoke with my mother initially at 4:37, and the subsequent call with her, I had tried to reach you, but based on my earlier conversation with you, I was of the mind that you were in transit from Miami to Fort Lauderdale and--well, on a Friday that's not the easiest thing to accomplish under certain conditions, and I realized that doubtless if you had had any difficulty, you were not at home.

I tried twice. In addition to trying to reach you, I tried to reach Andrew Mavrides, who is an attorney that has been involved at some point in this litigation. I was unsuccessful in my call to him in trying to reach him.

Ultimately, I did reach you and it was when you answered the phone that you said that you were walking in the door, that's the 5:06 call, and during that particular period of time, a little baby was raising Holy Cain and I indicated to you--

Hastings - direct

Q Where was this baby?

A Right with its mother and I don't recall whether there was a male person, but the child was right there and--

Q Not at my home?

A No, no, at the Baltimore Airport.

Q All right.

(Laughter)

A And I indicated that I would call you back or give you a number where you could call me, and that's the reason for the one-minute sequence.

Q All right. What was the substance of the conversation that you had with me?

A Very briefly, to try and learn a little bit more about what you knew and to tell you as quickly as possible what my mom knew, and you indicated to me on the second call that you had to rush out and pick up your daughter and I indicated to you that you should call me back and that I would await the call.

Q Did you give me a phone number?

A Yes, I did.

Q All right. And did I call you back?

A Yes, you did, but it was a little while later before you called me back.

Q All right. I draw your attention to Defendant's Exhibit No. 40.

A Yes.

Q Whose phone is that?

A That's my telephone number, meaning my personal number. In the two-bedroom apartment that my mother and I rent, there are two lines. One for her privacy and mine. I have never had an unlisted telephone number in my life.

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Q All right. Directing your attention to Item NO. 9 on that toll record.

A Yes.

Q At what time was that call placed? And from where?

A That call was placed from Glenburnie, Maryland, and it was placed at 5:24 p.m. to Fort Lauderdale, Florida.

Q And what is the duration of that call?

A This particular call was--I am trying to get it straight here. It was for four minutes.

Q With whom did you speak?

A Ms. Williams, I really am not certain at this particular point in time as I look at this.

Q With whom might you have spoken at your home?

A At some other point in time, I spoke with my mother.

Q All right. Now, you eventually flew out of the Baltimore Airport, is that correct?

A That is correct.

Q And where did you fly to?

A I flew straight to Fort Lauderdale.

Q When you arrived at Fort Lauderdale,

what did you do?

A I rented a car and I went home.

Q Did you call home from the airport?

A I certainly did.

Q And what did you say to whomever answered the phone when you called home from the airport?

A My uncle answered the telephone, and I told him that I was at home and I indicated to him at that particular time that I had arrived and he gave me the phone or gave mama the phone, and I spoke with her.

Q All right. Then where did you go?

A I went to your house.

Q Did you go home?

A You mean from the airport?

Q From the airport, where did you go?

A I went straight home, talked with my mom and dad -- and if I said mom and dad, my mom and my uncle--and then I went to your house.

Q All right. Now tell the ladies and gentlemen of the jury what happened when you came to my house.

A Well, we were there for awhile and we talked about all of the ramifications of the day's events.

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I had a better understanding then about what had transpired with you. I had an opportunity to make some phone calls. I called my staff. Specifically I was concerned about them, and I indicated to them, among other things, that none of them were to try to call me, that I wanted more specifically to be in a position to make sure that there was no particular problem.

I told them all that I was here and that I would see them on what was then a holiday, which was that Monday, and then you and I began to talk about legal undertakings as it pertains to this matter.

Q Did we make a determination relative to whether or not you should speak with the FBI?

A On that there was never any question about it, yes, we did.

Q All right. And, did the FBI--did you eventually speak with the FBI?

A I did.

Q How did that come about?

A They came to your house.

Q All right. Would you explain to the ladies and gentlemen of the jury how that interview took place?

A When the FBI arrived, it was after

eleven o'clock and they ran your bell. You answered the door and they asked for me, and I came immediately and said, "Come in, gentlemen."

And that's where they come in, and you showed us to your Florida room and Mr. John Simmons from the FBI and Mr. Lawrence Harrigan from the FBI were the two agents.

One was a sort of a short gentleman, certainly about my height, and the other one was a relatively tall gentleman, and we talked.

I began the interview by saying to them, "Are you wired?"

And they gave me my rights and I told them that it was perfectly all right with me, that I understood all of my rights, and to be assured of that and I asked them again did they have recording devices in their car, and they indicated to me that they did not.

I expressed to them that I did not mind at all that they would record the conversation.

Mr. Simmons led most of the interview. I would say ninety or 95 percent of the questions that were put to me were put to me by Mr. Simmons.

Mr. Harrigan sat across at your little dry bar area on a stool and Mr. Simmons and I sat in

the conversation pit, and we talked, with the exception of two interruptions that they had and one is that I called my mother, and we talked from some time after eleven until some time after one o'clock.

Q Judge Hastings, did you make a specific request to the FBI that they tape or record the conversation that you were having with them?

A Oh, indeed I did.

Q Why was that?

A I did not mind at all that they should record it and, to be frank about it, I thought that it was the proper thing to do so that it would not be their recollection or my recollection of the events of that particular evening, rather it could be a recollection that everybody could hear.

My understanding is that for whatever purpose that is not the customary practice of the FBI, and I will be very frank, I did not know that at that time.

I also am mindful that they did not do a question-and-answer simultaneously. Mr. Simmons would ask questions or Mr. Harrigan, the few that he did, and they would from time to time make notes and at other times they would ask other questions and just sit and rather than ask a question,write out the question and write out my answer.

I was concerned, I have seen FBI 302's. That's what they are called, the document, and I was

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concerned that we wouldn't have an accurate understanding and indeed we do not and did not.

Q All right. Thank you.

In the calmer reflection of the next several days, were you able to determine what had caused this horror to enter your life?

MR. WEINGARTEN: Excuse me. I am going to respectfully object. May we approach the Bench.

THE COURT: Counsel may approach the Bench.

And while the Court is conferring with counsel, ladies and gentlemen, you will be excused for our mid-afternoon recess. That will be until 3:30 this afternoon. Please remember not to discuss the case.

(Jury left the courtroom and the following proceedings were had:)

THE COURT: The Court is still in session; the Court is still in session.

(Sidebar conference between the Court and counsel as follows:)

MR. WEINGARTEN: I would respectfully request a proffer. I have a feeling that what Judge Hastings thought after calm reflections subsequent to

October the 9th may not be relevant so I would ask for a proffer.

MS. WILLIAMS: Oh, he's just going to say that he felt--what he has already said that he felt that Bill Borders used him and put him in that situation.

MR. WEINGARTEN: Well, it may be relevant as to what he thought on October 9th. That may have dictated certain of his actions, but what he concluded subsequent to Bill Borders' arrest, we would object to.

THE COURT: It is plainly irrelevant.

MS. WILLIAMS: All right. I will withdraw the question.

THE COURT: Objection sustained.

While counsel are at the Bench, we will not be sitting tomorrow, regardless of how this may go. The local marshals advise that there is a memorial march scheduled for tomorrow.

MS. WILLIAMS: Neville Johnson.

THE COURT: Neville Johnson, and they have requested that we not attempt to hold court on Saturday.

MR. WEINGARTEN: I can't see how I could

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finish my cross of the Judge today.

We'll have to put it over until Monday, but apparently it is a memorial march for, is it Neville Johnson?

MS. WILLIAMS: Yes, the young man who was--

THE COURT: The last time they had such a march, they had to close the entire courthouse, and the local marshals as well as the ones who are in charge of the jury, and so forth request --

MR. WEINGARTEN: It's probably wise. I hate to drag this out this way, though.

Do you expect to finish today?

MS. WILLIAMS: Oh, yes.

MR. WEINGARTEN: Soon?

MS. WILLIAMS: Not soon enough for you to complete a cross examination, no, but--

THE COURT: Very possibly, depending on when the direct examination is completed, we can recess at that point before starting the cross.

MR. WEINGARTEN: Okay. That's fine.

THE COURT: We won't go beyond 4:30.

MR. WEINGARTEN: The adrenalin is flowing. I would like to do this now, but I understand it's the

wisest thing to do.

THE COURT: How long will your cross be?

MR. WEINGARTEN: Well, it's at least two hours.

THE COURT: Okay.

MR. WEINGARTEN: All right, then I think I can do this Monday with cross, rebuttal and we will work on the charge and Tuesday we can close. I think we can do that.

THE COURT: Fine. All right.

And the Court will be in recess until 3:30.

(Recess taken)

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(After recess)

(Jury present)

THE COURT: Good afternoon again, ladies and gentlemen.

Direct examination may continue.

MS. WILLIAMS: Thank you, Your Honor.

DIRECT EXAMINATION (Continued)

BY MS. WILLIAMS:

Q Judge Hastings, you said that you rented a car at the Fort Lauderdale airport?

A I certainly did.

Q How did you pay for that, the rental of that vehicle?

A Kind of difficult to remember, but I think, in light of the fact that I got rid of my No. 1 Hertz card because of the incident when I visited Hemphill in Maxwell, I believe I paid for it by Master Charge.

Q All right, Judge Hastings. Now, when you were at the Baltimore Airport did you make any other calls that are not reflected on the toll records?

A Yes, I did. I told you that I called Andrew Mavrides' office and the telephone toll records do not reflect all the calls that I made.

Q Why does it not reflect the Andrew Mavrides call?

A Because that one was person-to-person, but I paid for yet another call.

Q Which call is it that you paid for?

A As best I can recall, and when you were asking me about it here, it would be one of the calls that I made to my mother.

Q All right. Did I call you, Judge Hastings, from the pay phone?

A Yes, at one point in time you did, and I called you at a pay phone.

Q All right. I'd like to move, how, to the Romano order.

A Yes. Which one?

Q Let's start at the beginning.

A Okay.

Q The Romano trial was a bifurcated trial. What is a bifurcated trial.

A Okay. A bifurcated trial is a trial where one portion of it takes place in the presence of a jury. And the substantive charges against the Romanos had to do with a variety of matters that have been testified to here, now, under the aegis of a

statute passed by the United States Congress called the RICO statute. When a jury sits in those particular aspects they make a finding of either guilty or not guilty, as the jury did in the case of Thomas Romano and Frank Romano.

Subsequent to that under the RICO statute --and it is not to the only one that is peculiar in that sense--but there is a forfeiture provision and in that kind of case the judge, then, takes briefings and has arguments from the lawyers and the judge make the decision on matters.

And in the Romano case we had such a bifurcated trial. The jury made one decision and then I made yet another decision.

That is not the only example of a bifurcated trial, but it is the best example that I can give in light of the fact that it is the case that we are here about .

Q In the Romano proceedings, what decisions were before you as the Judge?

A Only forfeiture, and most decisions that a judge has to make during the course of the substantive matters, of course.

But the decision that was left exclusively

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for me had to do with forfeiture, and exclusively for the ladies and gentlemen of the jury had to do with guilt or innocence.

Q Who was to make any decisions regarding sentencing?

A The judge would, in every instance, make the decisions with reference to sentencing.

Q All right. Now, there was an order issued returning one million two hundred thousand on May 4th.

A Yes, ma'am.

Q Who prepared that order?

A Miss Williams, in the Romano case, which lasted for the greater portion of the month of December, ended I believe on December the 23rd just before the Christmas holidays, a particularly dull trial in many respects it had some exciting aspects. During that trial a fine attorney, a gentleman named Marshall Curran represented the Romanos. Jeff Miller, of course, that has testified here already, was my law clerk. And James Deichert, who has testified here already, was the United States prosecutor.

Mr. Deichert knew more about the RICO statute and forfeiture than everybody in this courtroom,

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including me. And there is no question about it.

So, when the forfeiture matter was heard initially before the May 4th order, it isn't a question of trust, it is a question of getting the job done, and at a given time. And Mr. Deichert knew the particulars. I asked of him to prepare a draft order and to submit it to Jeffrey, which he did.

And I find it very ironic to be in a situation like this where Mr. Deichert was the one for the Government that prepared the May 4th order that I didn't even cross a "t" or dot an "i" before placing my signature on it and he knew the substance of that order, for I had asked him to prepare it, and in addition to knowing the substance of that order, had a reasonable indication as to the timing of same, in light of the fact that I am sure he expected if I approved it, that I would sign it at some time as it arrived at my desk and I did once Jeffrey made it aware to me that he had received it and he had done his reasoning and analysis and he gave it to me and I did mine, and I approved it because the state of the law on May 4th, as I understood it, required that the one and two-tenths million dollars be forfeited to the United States Government.

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BY MS. WILLIAMS:

Q Now, on June 19, 1981, Martino came down. When did that come to your attention?

A The case came to my attention at some time just before entering into the July 8th hearing where Mr. Sonnett appeared and if it was mentioned to me at all before the July 8th hearing it would only have been casually, for I did not read the United States vs. Martino decision before the July 8th hearing.

My best recollection is that I was on the Bench in a ratherpressing morning on July the 8th and I came off the Bench. Jeffrey approached me and at perhaps the length of a minute and a half or two we had a discussion with regard to the hearing that I was about to go into with Mr. Sonnett and Mr. Deichert.

MS. WILLIAMS: Madam Clerk, please mark this.

[Defendant's Exhibit No. 41 was marked for identification.]

BY MS. WILLIAMS:

Q Judge Hastings, I am handing you what has been marked Defendant Exhibit No. 41.

Would you identify what that is, please?

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A Yes, ma'am. This is the case of United States of America vs. Sam C. Martino.

Q Is it fair to say that that is the Martino decision of which we have been speaking during the course of this trial?

A The June 19, 1981, decision.

Q Judge, how many pages are there in that decision?

A Well, without trying to--

THE COURT: Perhaps it should be offered first.

MS. WILLIAMS: Excuse me, your Honor. At this time, your Honor--thank you very much, your Honor--I would move into evidence Defendant Exhibit No. 41.

MR. WEINGARTEN: No objection.

THE COURT: There being no objection, Defendant Exhibit No. 41 is admitted in evidence.

[Defendant's Exhibit No. 41 was received in evidence.]

THE WITNESS: Your question was how many pages?

BY MS. WILLIAMS:

Q Yes, your Honor--yes, Judge Hastings.

A I am not so sure that this is from the official cite, but it does have the administrative offices of West Publishing Company and it begins at what is here identified as 8226, meaning it has not arrived at the official Reporter just yet, and it ends on 8278, so that would be fifty-two pages.

Q All right.

And is it fair to say that the first time you saw that decision that it was handed to you for inspection and reading was about two minutes before you assumed the Bench on July 8th?

A Yes, it would.

And, Ms. Williams, not to at all be unfair, this long page does not carry with it all of the--all the way down printing. They stop short and this meant that it must have come out of the slip sheet and a slip sheet is an advanced sort of thing that comes into the respective Judge's offices after an Appellate Court renders a decision, and that is before it is in the bound volumes that people would know as the kind they see when a lawyer's office picture is taken or a Judge's office.

Q All right. Thank you.

Now, you indicated that there were at

least two issues before you for the July 8th hearing.

A Yes.

Q Sentencing and the forfeiture?

A Yes.

Q Were both those issues given equal consideration and thought by you prior to the July 8th hearing?

A No, they were not.

Q Did one receive more attention than other?

A Yes.

Q Which one?

A The sentencing.

Q Why?

A For me, I have never had as much trouble as some United States District Court Judges or Circuit Court Judges or Municipal Judges or anywhere else--an area of real concern for Judges is sentencing, and while I seem to go through it a little easier than some of my colleagues, there is no question but that the sentencing of any individual, the taking away of their liberty, is a great deal more crucial than whether or not you are going to take someone's property.

And the Romano case I had lived with.

I earlier was going to tell you there was some things that were new that were done in that case.

We did video at a hospital, for example. Mr. Thomas Romano became ill during the course of the trial with his heart. And his doctor said with appropriate monitoring that he could go forward with the questioning. At that understanding of both counsel, we went to the hospital on a Saturday and on a Sunday, full days, and took a videotape deposition that ultimately was played to the jury of Tom Romano testifying under either the direct or cross examination of either Mr. Curran or Mr. Deichert.

And I really-- I mean, in a situation like that, in a sick room, you get to know and get to feel people a lot better than you would in the austerity of the courtroom.

And for that reason, I had very strong feelings about the Romano case and of all the case that I have sentenced someone I had stronger feelings about that particular case than any other one.

Therefore, I had spent, as a lot of JUdges do, a pretty restless night the night before they were sentenced on the subject of whether or not

to send them to prison and I spent no time thinking at all about the property.

Q Now, in the two-minute briefing that you had with Jeff prior to assuming the Bench on July 8th, did Jeff say anything to you in his briefing that convinced you that the forfeiture should be reversed?

A I heard Jeffrey testify, and in that short period of time and in haste, I wish that it could be understood just exactly how much the force of the pressure is in making those very quick decisions.

And Jeffrey said something to me. I know now that I didn't fully understand what he said. I heard what he said and, quite frankly, I don't have an independent recollection of that.

And when I went on the Bench, evidently what I did was not what he thought that he and I understood in the short period of time that we had before I went on the Bench.

Q Was there-- At the July 8th hearing, did the two attorneys argue extensively?

A I think the ladies of the jury heard-- The answer to your question is "yes." Mr. Deichert and Mr. Sonnett are expert arguers, and if one had the time, he or she sitting as a Judge could be very well

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educated by both of those gentlemen. They are outstanding lawyers.

And, yes, ma'am, the did argue ad nauseum to the extent that I wanted to get on to the rest of the business of the day.

Q Did either one of them say anything that persuaded you to reverse the forfeiture?

A. They both talked about the Martino case and Mr. Deichert talked about this particular cae as not being one that was distinquished, meaning different than the Romano case.

Mr. Sonnett seemed as sure of his position that the Martino case doubtless or this particular matter should be controlling.

So, they both spoke of it and I spoke of it, too.

I went so far as to say that I was familiar with the case, and I can recall very vividly Mr. Sonnett handing up to me at the Bench, and as lawyers are want to do when they hand you a case sometimes, they will underline those portions that are pertinent to them.

And I looked at Mr. Sonnett's yellow lines and I had the general impression--and I still do--

that the forfeiture provision, while I personally question whether or not the RICO Statute is clearly understood, I understood it sufficiently to believe that the forfeiture provision would bear the best of constitutionality.

And for that reason, Mr. Sonnett did not say anything to me during the hearing that caused me to change my mind and therefore I affirmed my May 4th decision.

MS. WILLIAMS: Thank you.

Madam Clerk, may I have Government Exhibit No. 27

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BY MS. WILLIAMS:

Q Judge Hastings, I am handing you Government Exhibit No. 2-A, which is a part of the transcript of the July 8th hearing and which contains your ruling.

A Yes, I have it.

Q Judge, would you explain to us exactly why you ruled as you ruled and what you envisioned might be the result of that ruling?

A Yes. The lawyers, based on the petition for re-consideration that was filed by Mr. Sonnett, were before me with briefs that I was not fully familiar with.

And in addition to not being fully familiar with them, the Martino decision that was being pressed upon me, as has been introduced here, gave me not cause for pause, for I felt then, as I have indicated at the time that the ultimate order was issued in October, I felt that we were swimming upstreams of something that was about to cause forfeiture to be sustained, and for that reason I affirmed.

But I did say--rather than reserve--I did say that a brief order would follow, and what I had in my mind was that I would have time for Jeffrey to analyze and give me his memorandum with reference to

the Martino case and that would then give me a better understanding than I had at that little, very brief conference that we had before the July 8th hearing.

Q Judge, if immediately after the July 8th hearing Jeff had prepared an order that would affirm the forfeiture and would have done so reconciling the new cases that you had heard on July 8th, would you have signed that order?

A No, sir, assuredly.

Q Now, immediately after the July 8th hearing, did you and Jeff have any discussions about the Romano order?

A We didn't have any discussion to my recollection short of it was understood by me that Jeffrey would prepare an order and that these submissions would be considered.

So when you say "immediately," if you mean coming off the Bench, I don't think I came right off the Bench. I think I took another matter. I'm sure at some time before another decision came out that Jeffrey and I had a discussion of sorts about the Romano case.

Q And when you had that discussion, what was the understanding of both of you as to what was

being done regarding the Romano order?

A That an order was going to be prepared and, at that particular time, I would think that we understood that Martino was presenting us with a problem.

Q All right.

Now, after the Peacock decision--

A United States vs. Peacock.

Q United States vs. Peacock was handed down, did you then have another discussion with Jeff regarding the Romano order?

A I certainly did, and I remember it very vividly.

We were in the entering corridor to the Chambers that I am situated in and Jeffrey came to me. Again, I was either exiting--I am pretty sure I was exiting--and he was coming into the Chambers, and he indicated to me that the United States vs. Peacock decision had come down and he had read it and that the Romano case was, as has been testified hereto, was on all fours.

That's lawyer's language for just what it says, that everything about the Romano case fit that situation. And that was one where money had to be

remitted is the legal term that we sometimes use, returned is what was going to ultimately happen, and he advised me that that was the case and he thought that some of the money that had been forfeited in the May 4th order would have to be returned to the Romanos.

I said to him that that was satisfactory with me, and I don't recall the exact words but I do know the exact words regarding something else that I said to him and that was, "If we return any of that money, all hell is going to break loose."

And the reason that I said that was because of a fine young man from the Hollywood Sun Tattler who had tracked the Romano case gavel to gavel and had been there and had called repeatedly regarding when my order would issue, and I knew if at least no place else that the Hollywood Sun Tattler was going to carry big bold headlines about me returning money to the Romanos.

Q Had the Romanos been living in Hollywood or did they have a business there? How was the Hollywood Sun Tattler related?

A Well, I think I know, but I don't know whether I am supposed to know for purposes of this hearing.

The Hollywood Sun Tattler is in South Broward County and the Romanos lived in Hallandale at one point in time and the Hollywood Sun Tattler would be the newspaper that would be the local paper more or less for the Hallandale area.

Q Now, Judge, if Jeff had prepared an order immediately after you had this discussion with him, subsequent to the Peacock decision, if he had prepared an order returning the forfeited assets, would you have signed that order at that time?

A Returning the forfeited assets, yes, I would have.

Q In compliance with Peacock?

A Yes, I would have because then there was no question but that United States vs. Martino case and the United States vs. Peacock case buttressing it required nothing more than that.

There wouldn't have been anything else to do that would have been sensible.

But I still question that that decision no doubt was likely to be overturned, but at the time, I would have no choice.

Q All right.

Now, on July 14th, the testimony is that

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the Romanos filed an appeal.

A Yes, ma'am.

Q Where a final order has been issued, what is the effect on the order of the filing of an appeal? Would you explain that to the jury?

A Ms. Williams, I was trying to find the piece of paper, the chart that the Government supplied us, but that's all right.

Would you be kind enough to repeat the question?

Q What is the effect of the filing of an appeal where there has been a final order issued on a matter?

A It stays the proceedings.

Q What does that mean?

A That means that everything that takes place below, with some minor exceptions, cannot be forward. I guess-- It means just like it says. Like you tell a dog when you are training it, "Stay." That's what happens. When the Big Court tells you to, "Don't do anything else," you don't do it.

Q All right.

Now, was there a final order issued in the Romano decision--in the Romano case on July 14th when the appeal notice was filed?

A On July 14th, the only order that could be referred back to would have been the May 4th order and my July 8th language indicated that there was an order that was going to follow, so the July 14th matter may have been a bit premature in light of the fact that a final written order would have been what was required to be appealed from.

Q All right. Thank you.

Judge, in light of what you just said,

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would you have involved yourself in the Borders scheme in view of your knowledge of the effect of an appeal on a final order?

A Ms. Williams, I wouldn't have involved myself in any scheme. But your hypothetical, let me see, can I respond to that.

My knowledge of the court system as it pertains to the Appellate process allowed that what I did was not what might be considered the French term fait accompli, the end.

The October 6th order, if I can accelerate--

Q Go right ahead.

A --that I signed was an appealable order by the United States Government.

So what I would have been doing had I been in that situation, I would have been about the business of returning money as if it was going to walk back into the hands of the Romanos pronto when, in fact, it might have been a year or two away or more or less depending upon how the Court's business processed that particular case, before they got their money.

And in sum what I am saying is that it would have been impossible for me not to say to somebody

that I was in some big deal with that if you give this money to these people that then it is going to be two years before they get their money or one year or however long it takes to get.

Answer to the hypothetical: I would have known it. I knew it then and I know it now.

Q All right.

Let's turn one moment to October 5th and the conversation that you had with Jeff Miller on October 5th.

A Yes, ma'am.

Q Is it fair to say that between July 8th, which is the date of the hearing wherein you affirmed your May 4th forfeiture--

A All right.

Q --and October 5th, that you never urged Jeff to complete the Romano order? Is that a fair statement?

A I never urged in the sense that the October 5th matter has taken on the sense of urgency that everyone believes that I expressed.

I, as Jeffrey testified, said to him on more occasions than one that I wanted to know what was happening with the Romano case, and I'm sure that I

talked with Jeffrey about completing his business on the Romano case way before October the 5th and some time during the month of September, at least more than twice, certainly as much as twice.

Q Is there any dispute as to what it is you did say to Jeff on October the 5th?

What did you say to him?

A Again, people keep talking about words as if you can remember what you said yesterday real well, and I expressed to Jeffrey that I wanted that order done and there's no question about that.

But as to, "Do the order today," the words and the effect of the words carried with it the force of meaning that I wanted it done then and "then" meant either that day or as soon as he could complete it.

Q Did you expect Jeff to have the order completed by the day's end?

A Not necessarily. I didn't really know exactly how much he had to do. But I did know that it was not the easiest work that he had to do on many of our cases.

I knew about its complexity and that was a part of my concern.

Q Then if you were not necessarily trying to get Jeff to complete the order that day, what were you trying to do when you said to him, "Complete the order now"?

A To get him to do the order for a variety of reasons.

Jeff Miller and I and Judge Paine and I had an understanding and by either construction, and mine included, it was understood that the latest time that Jeffrey would be going to Judge Paine would be November the 1st.

But before that, at one time, he was going to be going to Judge Paine on September the 1st, and I begged off because of the press of business.

Judge Paine had a press on him, as is the case on every Judge in the Southern District of Florida, which is definitely the biggest court in the United States of America and in the last two years certainly was.

And I needed to catch up with that back-log that we had, and I needed Jeff's services.

On October the 5th, for the very first time, if I could get away, I was going to be gone for a long time, and because of that understanding that

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Judge Paine and Jeffrey and I had that if he had completed his work, it would not have surprised me at all to come back home at the end of the October period and find Jeff Miller working at Judge Paine's offices and that would not have surprised me nor would it have disturbed me but for the fact that Jeffrey was going to carry with him in his head matters that I needed; that because of previous experiences, I did not want him to leave and leave that matter unattended.

That's one item.

There was a second one, and that is, the Romano file is the only file in the whole period that I am serving as a United States District Court Judge that sat on the desk which at that time was right at the door that I entered to go into my office, and it sat there from some time beginning in mid-August until the day of October the 5th, and I can't say that I visually dealt with the Romano order every day but I can say that I saw the Romano file every day when I went into my office or if I didn't see it every day it certainly caught my attention regularly during that period of time.

That jogged me to jog Jeff, as I did from time to time.

But the most pressing consideration was the complexity of the forfeiture aspect and his leaving and the possibility of his not being there when I returned from the long trip with the exception of one day that I was going to come back to try a juvenile that was in jail.

And it is for that reason that I made the statement to him that I wanted the order done.

Q Now, on October 5th when you told Jeff you wanted the order done, did you tell him to bring

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it by your house that evening?

A Oh, no.

Q Have you in the past asked Jeff to bring urgent matters by your home in the evening?

A Jeff and--you don't have to ask Alan. He brings you more than you want at your home. But, indeed, I have asked Jeffrey to bring matters that I considered of critical significance to me at my home.

Q All right.

The next day, did you inquire of Jeff about that order?

A I asked him nothing.

Q Now, when did you learn the contents of that order?

A A You mean the dollars and cents contents?

Q The dollars and cents contents.

A And in addition to the dollars and cents contents, the substance, as they put it, of the decision that was being made?

Q Yes.

A Some time after 4:30, 4:00 or 4:30 on the day of October the 6th, and my recollection is that it was not until Betty Williams, my secretary, had typed the order that Jeffrey completed his calculations and

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that is because he told me that, that he was about the business of calculating as I came off the Bench on the last recess in the matter that I was in at that time.

Q All right.

Had the en banc decision reversing Martino issued by October the 5th?

A No.

Q Wait.

A Excuse me.

Q If it had issued by October the 5th and Jeff had presented you a proposed order affirming the forfeiture, would you have signed it?

A I don't quite understand your question. And yo will pardon me, I am tired, but would you repeat your question?

Q Surely, I will.

If the en banc decision reversing Martino had issued by October the 5th and Jeff had presented to you a proposed order affirming the forfeiture, would you have signed it?

A Right that minute. I would have known that to be the state of the law.

But, you know, Ms. Williams, it's--and, your Honor--it's-- You have used the word "en banc."

Hastings - direct

Q I was about to ask you, Judge, if you would explain to the jury what "en banc" means.

A I'm sorry, but us laywers tend to--

MR. WEINGARTEN: May we approach the Bench?

THE COURT: Counsel may approach the Bench.

Hastings - direct

(Sidebar conference between the Court and counsel out of the hearing of the jury as follows:)

MR. WEINGARTEN: I hate to object during the defendant's testimony, but we are getting into a speculative area. There was no en banc hearing, no en banc decision at this time, and we will object at this point and ask that defense counsel refrain from this line of questioning.

THE COURT: Well, the pending question is hypothetical. The en banc decision didn't come down until months after October 6th.

MR. WEINGARTEN: Yes, yes.

THE COURT: Do you wish to be heard?

MS. WILLIAMS: It is hypothetical. That doesn't make it objectionable.

MR. WEINGARTEN: Yes, I think it does.

THE COURT: Yes, it does.

The objection is sustained.

MS. WILLIAMS: Your Honor, the question is asked and answered. The only question on the floor is that he explained what en banc means.

THE COURT: Well, if I understood his answer to the question, he indicated he would have

signed the order then. I don't think he meant that.

MR.WEINGARTEN: I don't think you got the answer you wanted.

THE COURT: He said just the opposite. He obviously -- you can see the record, assuming the reporter has it accurately transcribed.

MR. WEINGARTEN: He did answer exactly opposite from what you wanted.

MS. WILLIAMS: Okay. My point is whether the answer is wrong or right, the question is as to what en banc means and that one is non-speculative. Do you want me to--

How do I proceed about that?

THE COURT: The objection has been sustained. The answerto the last question will be stricken.

MR. WEINGARTEN: Right.

MS. WILLIAMS: Okay.

THE COURT: As far as en banc, if you want an instruction on what en banc means to the jury, I will give the jury that instruction in the course of my charge.

MS. WILLIAMS: Okay.

THE COURT: If you want it. And--all

Hastings - direct

right. Never mind.

(Sidebar conference concluded and the following proceedings were had in open court:)

THE COURT: The objection to the last question that was answered has been sustained, ladies and gentlemen. That was the hypothetical question asked of the witness and the answer to that question is stricken and should be disregarded by you. If counsel wish the jury instructed on the meaning of en banc, I will include that in my charge at an appropriate time.

MR. WEINGARTEN: Thank you, Your Honor.

MS. WILLIAMS: Thank you, Your Honor.

BY MS. WILLIAMS:

Q Judge Hastings, did you reveal the contents of the Romano order to Bill Borders?

A Absolutely not.

Q Was there something sensitive about the Romano order which prohibited someone from talking about its contents?

A I know of nothing that was sensitive and I have seen this aura develop around that order. It's different than sensitive matters. We have confidentiality that is an absolute must in order for us to

Hastings - direct

function in the courts, but you know it isn't uncustomary for an order of the United States Supreme Court to be revealed in advance, and I make no defense in this particular situation. I revealed nothing to Bill Borders or anybody else because I didn't know the contents of the order until Jeffrey Miller did the order and it's just that simple.

But if it had been a sensitive order, or let me give you an example of that, on a wire tap, for example, would be something under Title III that would be super-sensitive, and the judge that issues such an order is legally bound, not only ethically bound, but legally bound, not to reveal the substance and contents of that matter as are other people, and if it had been in that category, then it would bear the kind of sensitivity that seems to have gripped this order as we have travled through this case.

Q Is there a need sometimes for lawyers to know about the timing of orders?

A Oh, definitely. That happens. You can't begin to count the number of lawyers that call asking about their business and that is proper for them to do. It is that we do not always reveal the timing of the order, but it is not uncustomary to have lawyers

say, "Is the Judge going to sign the order?"

And for someone to say, a secretary or deputy clerk or someone else to say, that the order will be out next Wednesday.

Mr. Deichert called about this order frequently and Mr. Deichert was the prosecutor, and I'm sure that he was not calling just because he didn't have anything else to do. He wanted to know when would that order be issued, for whatever his purpose, and it must be clearly understood that there were other people that were interested in the Romano order as well, and a lot of people were calling asking about that order.

They were not calling me for I am insulated and isolated from that kind of situation, but indeed they would call and they were not all lawyers who had something to do with the Romano case in court before me.

As far away as Chicago, lawyers were calling, and I might add prosecutors and defense lawyers were interested because that was a case, not the Romano case itself, but the Bartino case and the Peacock case sitting over that case, and my order was going to evidently be of interest to either prosecutors or defendants.

Hastings - direct

Q Do you know, Judge Hastings, if there was a civil proceeding against the Romanos which would interest people in the forfeiture aspect of your case?

A I know of two civil proceedings with the Romanos. One before Judge King and one that was in my division. I believe I inherited it. It had to do with a labor situation where a lawsuit was ongoing and another one with Judge King that arose where a trustee in bankruptcy was suing either--I don't want to use names--the Iota Corporation or KRR--you get to know those if you know the Romano case. They were spinoff and/or subsidiary corporations that the Romanos in some way were involved with with other people that caused them to get involved criminally to the extent that they wound up in court.

So, yes, indeed, there were in this court, the Southern District of Florida, two other cases that lawyers filed that caused them to be interested in the forfeiture aspects that were pending before me.

Hastings - direct

Q And do you know whether or not any of those lawyers called regarding the Romano order?

A Repeatedly. .

Q All right.

A And how I know that is through staff.

Q Judge Hastings, I show you what's been marked Defendant's Exhibit No. 42.

A Yes.

Q For identification, please.

A Yes.

Q What is that, please?

A This is a lawsuit by plaintiffs against Thomas and Frank Romano and other people.

Q Is that a civil proceeding?

A It is a civil proceeding and it bears the initials JWK.

MS. WILLIAMS: Your Honor, at this time we would move into evidence Defendant's Exhibit No. 42.

MR. WEINGARTEN: No objection, Your Honor.

THE COURT: There being no objection, Defendant's Exhibit No. 42 is admitted in evidence.

(Defendant Exhibit No. 42 was admitted in evidence)

Hastings - direct

BY MS. WILLIAMS:

Q. Judge Hastings, how would Defendant's Exhibit No. 42 relate to the Romano forfeiture order?

A. Well, first off, the lawyers that appear here are Gary Fox and Alan Freeman, both lawyers here in Miami. Mr.Fox was appearing on behalf of Bart Tiernan, III as trustee in bankruptcy of the Estate of Iota IMD, Inc. versus Thomas Romano, Frank Romano, David Shapiro and Company, 4300 Rock Island Corporation and the Sea Inn of Hallandale, Incorporated, and the defendants were represented by Mr. Alan Freeman.

A lot of times when you see the names of lawyers, it does not mean that other lawyers have not been involved and in this particular case, it was not my case.

There were at least fourteen lawyers involved in the labor dispute with the Romanos before me. These appear as only two, but there are other lawyers that work with these lawyers, and I happen to know personally that Mr. Fox called because I referred him to Jeffrey with reference to the forfeiture and for the express purpose that the Sea Inn of Hallandale was a restaurant owned at one time by Thomas and Frank Romano in some fashion, and I don't know all of the

Hastings - direct

details, but whatever was going to happen with the money of the Romanos in my case was going to affect creditors in this case that was before Judge King as well as whatever the dispute was, and I don't remember the dispute, in the labor matter that had ongoing civil ramifications as well.

So there were, in addition to lawyers that were intellectually interested and lawyers that were the lawyers of consequence, Mr. Sonnett or Mr. Deichert, and prosecutors and other officers, specifically in Chicago they called repeatedly, there were lawyers all over the country calling about the Romano order.

Hastings - direct

BY MS. WILLIAMS:

Q All right, thank you, Judge. Is the Romano order the only case where you have reversed a Bench announcement?

A We have extraordinary discretion as U.S. District Court Judges. I want to answer you yes and no.

The no part is that it is the biggest kind of case where that kind of situation arose. But there have been minor orders that did not bear the same consequences as the Romano order and the best one that I can think of would be an IRS, Internal Revenue Service summons that I made an issuance and pronouncement on the record, in a case called U.S. versus LaSalle came out and Alan Ehrlich researched that particular matter and brought it to my attention and we changed the decision that we made.

That particular kind of situation would not carry with it the same force and effect of the Romano case. The Romano case was the first case that I ever had under the RICO statute and it was the first and only case where, after making a decision that I made either on May 4th or in my affirmance on July the 8th, that the law in the Circuit was getting ready to

Hastings - direct

press me down and say, "Judge, you are wrong. You cannot do that."

And that was the first and only case of that variety that I have had. It is not as if this occurs every day. It does not. The en banc Martino case required that the whole of the Eleventh Circuit, all of the judges had to meet because another panel and another panel had created what we call a conflict and those judges then sit en banc, and that en banc determination, final en banc determination did not occur until after the October 6 order that I issued.

Q Thank you, Judge.

All right, for the moment, Judge, I would like to talk about the Romano brothers, themselves.

A All right.

Q Okay?

Now, did the Romanos appear with their attorneys at all the hearings that were had before you, or did they only appear at the trial, itself?

A The Romanos, as best I can recall, appeared in person at all of the proceedings that occurred before me.

Q And how long was the trial? How many days did it cover?

Hastings - direct

A It began in early December and ended on the 23rd of December and it encompassed the entire month, and I mean working days, and not--with the exception of the one period at the hospital, we worked on Saturday and Sunday, but it was only the lawyers, not the jury, at that particular time.

And we did not have a sequestered jury.

Q Is it fair to say, Judge, that you drew accustomed to the faces of the Romanos?

A Without fail, without question. Not only that, their mannerisms, their habits and knowledge about them that would come to my attention as a result of presiding in the trial.

Q Might you mistake Paul Rico for Frank Romano?

A No way. You could wake me up at four o'clock in the morning and I wouldn't have any problem in making that determination. None whatsoever.

MR. WEINGARTEN: May we approach the Bench, Your Honor.

THE COURT: Counsel may approach the Bench.

(Sidebar conference between the Court and counsel as follows:)

Hastings - direct

MR. WEINGARTEN: Miss Williams has identified Defendant's Exhibit No. 43. It appears to be a picture from a newspaper article that appeared during this trial. Appears to be pictures of Rico and Romano. Rico and Romano have both testified in this trial and we object to the admission of defendant Exhibit 43 as superfluous and irrelevant.

THE COURT: This appeared in the--

MS. WILLIAMS: Newspaper.

THE COURT: -- last night's paper, was it?

MS. WILLIAMS: Yes.

THE COURT: Miss Williams?

MS.WILLIAMS: Your Honor, I was just going to ask the Judge to use it to compare the faces of the two as he described it.

MR.WEINGARTEN: That is certainly unnecessary. Both men have testified.

THE COURT: Is there an objection?

MR. WEINGARTEN: Yes.

THE COURT: The objection is sustained.

MR. WEINGARTEN: Thank you.

THE COURT: Defendant Exhibit 43 is excluded from evidence and should be retained for the

record.

MS. WILLIAMS: All right.

THE COURT: It is 4:27. The Court is recessing at 4:30.

Mr. Ehrlich, will you return to counsel table? I thought it was understood he was not to be--

MS. WILLIAMS: It is understood. He just had a message for me.

THE COURT: How much longer are you going to be on direct?

MS. WILLIAMS: More than three minutes, Your Honor. About twenty minutes more, I would think.

THE COURT: I think we will adjourn until Monday morning. As indicated, we cannot sit tomorrow because of the circumstances in this city right now and I would like to see counsel at the Bench or I'd like to see counsel briefly in chambers when we recess just to plan our--try to get some indication where we are going on Monday.

Is this as good a time as any to recess?

MS. WILLIAMS: Sure.

THE COURT: And may I see counsel in chambers?

(Sidebar conference concluded and the following proceedings were held in open court:)

THE COURT: Madam Forelady and ladies and gentlemen, Miss Williams indicated that there may be substantial more direct examination. We have reached the witching hour and we will be recessing at this time. We are going to recess until Monday morning at 9:30. We will not be sitting tomorrow or Sunday. I do have a very pleasant opportunity. At this time, I understand that is it Miss Morris?

She will be celebrating her 21st birthday tomorrow. They planned a little party for her and I know that everyone in this courtroom joins with me in wishing her a very happy birthday, and many of us wish that we were approaching our 21st birthday.

And ladies and gentlemen, I do again caution you particularly at this time not to discuss this case during this recess. Talk about how nice it would be to be 21 again.

I think I still can reasonably assure you this case should be in your hands on this coming Tuesday and probably on Tuesday there will be argument and charge.

OFFICIAL COURT REPORTERS
U.S. DISTRICT COURT
MIAMI, FLORIDA 33101

Hastings - direct

With that, we will recess until 9:30 on Monday morning. Have a pleasant evening.

(At 4:30 p.m. the jury left the courtroom after which the following proceedings were had:)

Hastings - direct

THE COURT: Counsel, I am sorry to impose. It has been a long day for everybody, and I am sure--

MR. WEINGARTEN: Not for us. We didn't do anything. We just sat there.

[Laughter.]

THE COURT: I also very much regret that we do have to recess till Monday, as I indicated at the Bench that apparently there is a memorial prepared of some type tomorrow and the local Marshals as well as the Marshals who have been taking care of us have asked that we not attempt to hold court under the circumstances.

I understand that you will be about thirty minutes, probably.

MS. WILLIAMS: Thirty minutes more, your Honor.

THE COURT: Have any estimate on cross?

MR. WEINGARTEN: Not that long. Not that long.

I think that there is a real good shot of having cross and rebuttal on Monday. I really think that.

THE COURT: Well, then, following the

rebuttal, I will have to hear argument on the usual motion and I will then have to review my charge with counsel and then we'll proceed to closing arguments on Tuesday.

I am simply trying to plan logistically. I have found that-- Well, may I say this? At the close the evidence when defendant moves for judgment of acquittal, I usually permit a more extensive argument than is my practice to permit at the close of the Government's evidence.

With respect to charge, I would normally discuss that in Chambers with counsel. The practice in the First Circuit which was mandated by then Chief Judge Aldrich by sitting by designation on the Tenth Circuit, by all places, is that discussions of charge are not on the record.

I will follow whatever procedure counsel are familiar with and prefer here. In order to protect the rights with respect to charge, of course, exceptions or requests will be made at the conclusion of the charge, when I discuss the charge and hear counsel as to any exceptions or requests.

Is that procedure agreeable?

JUDGE HASTINGS: That is satisfactory.

Hastings - direct

MS. WILLIAMS: Yes.

THE COURT: Do you have any estimate of how long argument would be?

I would not limit argument unreasonably in a case of this size.

MR. WEINGARTEN: I would respectfully ask for an hour and a half for both with the expectation I would come in under with my discretion as to how I use it.

THE COURT: And the Government, of course, argues first. The defendant will then argue. And the Government has a limited time for rebuttal.

And how long would you anticipate your argument would be?

MS. WILLIAMS: An hour.

JUDGE HASTINGS: Hour and a half.

Always ask for more and take less.

MS. WILLIAMS: Okay. Hour and a half.

THE COURT: Who is going to argue?

JUDGE HASTINGS: Judge, we'd like to--

MS. WILLIAMS: Up for grabs.

JUDGE HASTINGS: --talk about that over the weekend, if you don't mind.

THE COURT: My rule of thumb is that on

rebuttal--first, of course, it should be rebuttal. And secondly, I usually, if a defendant will argue less than thirty minutes, allow five minutes for rebuttal, and if it's less than an hour, ten minutes for rebuttal. If it is an hour and a half, fifteen minutes for rebuttal.

In other words, it is roughly five minutes rebuttal for each thirty minutes.

That would indicate, if you take that full time that we have, almost a full day of argument with recesses.

MR. RICHTER: Certainly there would be time for instruction.

JUDGE HASTINGS: Yes, sir, there would be time.

MR. WEINGARTEN: I think the instruction last time was about an hour and the law is substantially the same.

THE COURT: We'll just see how it goes but--

MR. WEINGARTEN: May we start at 9:00?

THE COURT: Charging a jury in the late afternoon--

MR. RICHTER: Three hours worth of

argument with breaks and everything, you might get into a little into the afternoon but you'd be starting by 3:00.

THE COURT: We'll just see how it goes.

My concern is that if Monday is occupied with cross examination and rebuttal evidence for the Government that I may not be conferring with you and hearing argument and so forth until Tuesday.

So, you just have to see how it goes.

I am just trying to anticipate the other matter.

I just wanted to mention to counsel that the Government has indicated that the charge which I delivered to the jury in the Borders case was satisfactory to the Government, with obvious modifications, eliminating Counts 3 and 4 and other changes which are indicated.

The defendant has submitted specific requests which generally appear to be satisfactory, as reviewed by them.

And I thought counsel should be aware that I anticipate my charge will be essentially the charge I gave in the Borders case and you might wish over the weekend to review that.

Hastings - direct

You have a transcript of it?

JUDGE HASTINGS: Yes, we do, your Honor.

THE COURT: Does it generally appear satisfactory to you?

JUDGE HASTINGS: Judge, the only reason we opted for the ones that we submitted to you has to do with clarity.

There certainly could be no question that your charge in the Borders case was a handsome charge, but I have become a fan of Judge Patrick Higgenbotham, and that is where that comes from. It comes in large part out of that antitrust proviso.

I don't know whether you all have seen it, some of the things that just seem to speak clearer than we speak from time to time, and that is why they are submitted.

If you find worth in any, then we would appreciate it. If you don't, we understand.

THE COURT: On the conspiracy aspect?

JUDGE HASTINGS: Yes, sir.

THE COURT: As you probably recognize, the charge I gave in Borders is basically what we find in--

JUDGE HASTINGS: Devitt & Blackmar.

Hastings - direct

THE COURT: --Devitt & Blackmar.

JUDGE HASTINGS: Right. And I am aware of that.

THE COURT: I have and will continue to review the requests.

JUDGE HASTINGS: Thank you, Judge.

MR. WEINGARTEN: We will submit any additional ones Monday morning first thing if we have any.

THE COURT: That is all I have for counsel except I hope you have a pleasant weekend.

JUDGE HASTINGS: Thank you, your Honor.

[At 4:50 p.m., the trial adjourned until Monday, January 31, 1983, at 9:30 a.m.]

- - - - -

I N D E X

Witnesses	Direct	Cross	Red.	Rec.
Alcee L. Hastings	1768	--	--	--

EXHIBITS

	FOR IDEN.	IN EVID.
DEFENDANT'S		
No. 26	--	1788
No. 27	--	1793
No. 29	--	1849
No. 30	1859	--
No. 31	--	1867
Nos. 33, 34, 35	--	1900
Nos. 36, 37	--	1903
Nos. 38, 39, 40	--	1926
No. 41	1949	1950
No. 42	--	1979

RECORD ON APPEAL Vol 21 & 27. 12-29-81 DI-427

CIRCUIT APPEAL NO. 82-5262

IT'S APPEAL FROM Southern DISTRICT OF Florida AT Miami

DOCKETED 3-1-82 $65 FEE PAID Pd. in D. C. JUDGE Edward Thaxter Gignoux (V.J.)

NOTICE OF APPEAL FILED 2-26-82

DOCKET NUMBER 81-596-CR-ETG

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

United States Senate

HONORABLE ALCEE L. HASTINGS,
EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 156 pt 2

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
APR 23 1985
SPENCER D. MERCER
CLERK

Defendant-Appellant.

CONSOLIDATED WITH No. 82-5715

RECORD ON APPEAL

BX-91

CIRCUIT 11 | DEATH PENALTY | DIST. SYST. NO. | CASE NO. 82-5715

DIST.	DOCKET NUMBER	DATE DOCKETED	IN U.S.	APPELLANT	IN U.S.	APPELLEE
1	82-5715	06-17-82		HON. ALCEE L. HASTINGS		JUDGE EDWARD GIGNOUX

IN RE:

THE HONORABLE ALCEE L. HASTINGS,

Petitioner.

20 964 996

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA

No. 81-596-Cr-ETG

UNITED STATES OF AMERICA,
Plaintiff,
vs.
ALCEE L. HASTINGS,
Defendant.

VOLUME 10

United States Courthouse
300 Northeast 1st Avenue
Miami, Florida
Monday, January 31, 1983
9:30 a.m.

The above-entitled cause came on for further trial before the Honorable EDWARD T. GIGNOUX, Chief United States District Judge, District of Maine, and a jury, at the time and place aforesaid, pursuant to adjournment taken on January 28, 1983.

APPEARANCES:

SAME AS HERETOFORE NOTED.

- - - - -

RECD	TO JUDGE
2-26	2-26
BY MB	240

THE COURT: Good morning, ladies and gentlemen. Good morning, counsel. Once again, the Court simply wishes to remind the spectators that there should be no conversation, no whispering, no noise whatsoever while the Court is in session. I am confident that you will follow our instructions in that respect.

The jury may be called into the courtroom.

[The jury entered the courtroom and the following proceedings were had:]

THE COURT: Good morning, ladies and gentlemen. Once again I express the hope that you had a pleasant weekend, and plus you recovered from last night's tragic events on the West Coast.

We will continue today with the direct examination of the defendant. The Court reminds you, Judge Hastings, you are still testifying under the same oath that you took last week.

JUDGE HASTINGS: Thank you very much, your Honor. Yes.

THE COURT: And the direct examination may proceed.

MS. WILLIAMS: Thank you, your Honor.

THE COURT: Miss Williams.

Hastings - direct

Thereupon--

ALCEE L. HASTINGS,

the defendant herein, the witness on the stand at the time of adjournment, having been previously duly sworn, resumed the stand and was examinedand testified further as follows:

DIRECT EXAMINATION [Continued]

BY MS. WILLIAMS:

Q Judge Hastings, we were talking about the Romano brothers when we recessed.

A Yes.

Q Now, did you have access to a photo of Frank Romano when you were presiding over his trial?

A Frank Romano and Thomas Romano's photographs were in the file of the Romanos from the time that I presided until the time that the matter was ultimately sent to the Circuit Court.

Q If you had so desired, could you have photocopied whatever pictures of the Romanos were in the file that you had?

A Indeed I could have.

Q Now, had the Romanos requested from you permission to travel?

A In February I believe it was, Mr. Frank

and Thomas Romano requested to be permitted to travel to California, and my understanding was that they were about the business of setting up a business there.

The government vigorously objected to their being permitted to travel. I assured the government that they had been in court at each instance that I thought they needed to be there, and there was no reason that I could believe, over the period of time that they had been involved in the litigation, that they would not show up; and for that reason, I permitted them to travel to California.

Q On July 8th when you sentenced them?

A Yes.

Q Where did you think the Romanos would be living?

A On July 8th, that specific date, based on the information that I had in hand prior to sentencing them, I was of the mind that the Romanos would be living in and doing business in California, pending the outcome of their appeal.

MS. WILLIAMS: All right. Madam Clerk, would you mark these items?

Hastings - direct

MR. WEINGARTEN: May we approach the Bench, your Honor?

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MR. WEINGARTEN: Your Honor, I have Defendant's Exhibits 44, 45 and 46. 44 and 45 appear to be the probation report on the Romanos, routinely prepared prior to sentencing. 46 appears to be a docket sheet in the Romano case. We have no objection to 46. We do object to 44 and 45.

It is apparent they contain extraneous material, nothing to do with this case. It is a work-up on the Romano brothers, and I think it can only confuse the issue.

THE COURT: Miss Williams?

MS. WILLIAMS: Inside those reports, your Honor, is the information that led Judge Alcee Hastings to believe that the Romanos would be living in California from the date that he sentenced them until the next time he expected to see them in court.

THE COURT: Could you point it out?

MS. WILLIAMS: It is Page 12.

THE COURT: On both reports?

Hastings - direct

MS. WILLIAMS: Let me check this one, while you check that one.

Is it Page 12 on there?

THE COURT: I don't know what you are referring to.

MS. WILLIAMS: His family resides there. They have businesses there. They requested permission to go back and forth there, and the Judge believed, based on all that was before him, that they were going to be there in Viejo, California.

I will have to get the correct page for this one. It is not Page 12.

THE COURT: Well, he has testified to that.

MS. WILLIAMS: He has testified--

THE COURT: This entire report is obviously wholly extraneous.

MS. WILLIAMS: Your Honor, he has testified that, based on the information before him on the PSR, that he was of the belief that they would be residing in California. That is his testimony. This is the PSR. It just confirmed, more or less, what he said.

THE COURT: You object?

Hastings - direct

MR. WEINGARTEN: Yes.

THE COURT: The objections to Government Exhibits 44 and 45 are sustained. Apart from the fact that the Court can find no relevancy in these exhibits, it obviously contains a great amount of matter which would just result in confusing the jury, and a waste of time, and will be excluded under Rule 403.

There being no objection, Defendant's Exhibit 46 is admitted in evidence.

[Defendant's Exhibit No. 46 was received in evidence.]

MS. WILLIAMS: Excuse me, your Honor. Then we would move to admit that portion of the PSR which relates--

THE COURT: Have it prepared on a separate sheet of paper, and the Court will rule at that time.

MS. WILLIAMS: Your Honor, can he not testify at this point from that portion, and then we later type up that for admission into evidence? It will only relate to the one paragraph.

THE COURT: You ask a question of the witness, and if there is an objection, the Court will rule on it. If you wish to offer another exhibit, have it prepared and the Court will rule on it, if there is

an objection.

MR. WEINGARTEN: Which paragraph, just so I can--

MS. WILLIAMS: Can I have him identify at least the exhibits?

THE COURT: You ask a question, and if Mr.--if the government has an objection, the Court will rule on it.

[Sidebar conference concluded and the following proceedings were had in open court:]

THE COURT: Without objection, Defendant's Exhibit 46 has been admitted in evidence.

BY MS. WILLIAMS:

Q Judge Hastings, let me hand you what has been marked as Defendant's Exhibit 44 and 45 for identification. Would you please tell us what those exhibits are?

A 44 and 45 are reports having to do with the presentence investigation of both Messrs. Thomas Romano and Frank Romano.

Q And was it information in those reports that led you to believe that the Romanos would be living in California?

A Most assuredly. Both probation reports reflect that at two different points, that the Romanos, one, were presently about the business of establishing themselves in California; and, two, on the day that I sentenced them, it was the clear understanding that until their appeal was concluded, that they would be doing business and living, if at all possible, in California.

And that was my understanding on July 8th and until such time as I saw them on last week, when they were, in fact, living in California.

Q All right. Thank you. If Bill Borders had told you that he had seen the Romanos in Miami, would you have been surprised?

MR. WEINGARTEN: Excuse me. Objection. That's--

THE COURT: Sustained.

BY MS. WILLIAMS:

Q Judge Hastings, I have also handed to you for identification Defendant's Exhibit No. 46. Would you tell us what that is?

A Defendant's Exhibit No. 46 is an excerpt from the criminal docket.

A criminal docket is a Deputy Clerk's

general references to all items that are entered into the record of any person, be it civil or criminal, that is a case pending in Court. This particular portion of the docket sheet, which is not a full docket sheet, reflects certain items having to do with the criminal proceedings of the Romanos in that specific case file.

Hastings - direct

Q All right. Is there any reference in that criminal docket of the Romano order to your granting permission to them to travel to California?

A In this particular instance, I believe it reflects that Judge Davis--and Judge Davis and I are kind of counter parts. We do a lot of duty work for each other.

Specifically, the reference is:

"Order: ALH, motion for permission to travel outside the Southern District of Florida. Granted with requirements."

And I believe somehow or other, unless I am in error, I am just looking at the entry here but I know, in fact, that in February of that particular year I sanctioned the Romano's motion to travel to California and I know for a fact on July '78, I thought they were living in California.

Q What is the date of the item you just read?

A The particular order is February 27, 1981. That particular entry of this page of the docket sheet.

Q All right. Thank you.

Now, Judge Hastings, are there traits of

the Romanos with which you are familiar that would have alerted Bill Borders to if you were involved in a scam with him--

MR. WEINGARTEN: Excuse me. I specifically object; speculation.

THE COURT: Basis?

MR. WEINGARTEN: Speculation.

THE COURT: Sustained.

BY MS. WILLIAMS:

Q Do you know of traits of the Romanos, personal traits of the Romanos, Judge Hastings?

A Indeed I do.

Q Would you tell us about those traits?

A Mr. Thomas Romano is very short. The ladies and gentlemen I believe have seen Mr. Frank Romano. Mr. Frank Romano is hard of hearing. I know of no particular sight problems that he has, but I do know for a fact that at some point in time I did see him with glasses, from time to time.

Mr. Thomas Romano is, without question, the brain trust of the two brothers. He is the person that is the leader type, the person that goes forward and in all of the matters having to do with the litigation, Frank Romano had more or less a passive role to

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play.

I know of no great smoking habits of Mr. Frank Romano and Mr. Thomas Romano had an extraordinary problem of lung conditions, it seems and heart problems and he did not smoke excessively.

Both of them appeared to be very kind and non-gruff individuals from their overt mannerisms. Mr. Frank Romano is easily distinguished facially. There is no question but that he has a face that is easy to identify.

And the other characteristics would be ad nauseum based on things that I observed during the one month that I was presiding over the Romanos' trial in December of 1980.

Q All right. Thank you.

I would like to move now to September 16th.

A Yes.

Q Judge, would you tell the jury why you went to the Fontainebleau Hotel on September 16th.

A As I indicated, William Borders had indicated to me that he would be at the Fontainebleau Hotel during the dinner hour and for purely social purposes he and I were going to meet expressly for the

purpose of socializing. I indicated to him that that would be on a day that I had a Judge's meeting. Most of the days, not all, but most of the days when we have Judge's meetings, I eat here in Miami at some establishment prior to going home and it does not occur all of the time.

The day before I invited Essie Thompson to have dinner with me and that was ostensibly for the purpose that Mr. Borders had indicated and I don't remember whether he said that he would be with a friend or with friends.

Further, I don't have an independent recollection of whether or not there was a subsequent phone call. I believe that there was, but I know for a fact that in Washington, on the evening of the 12th and on the morning of the 13th, William Borders indicated to me that he would be in Miami at the Fontainebleau Hotel on September 16th.

And that is the primary reason I went there.

The secondary reason was I was going to eat anyway and that was just as good a place as any.

Q All right. Now, explain to the jury what you and Essie Thompson did when you got to the

Fontainebleau Hotel.

A Immediately upon arriving, we went into the area that is commonly referred to as the Poodle Lounge and Steak House. We meandered very briefly in there, came back outside and went to the main dining galleries, talked with and saw the maitre d' at that particular point in time and did, in fact, tell the maitre d' that I was expecting a Mr. William Borders and company.

Was ushered to my seat which was a table for four. Place mats for two other persons were removed at that particular point in time.

Ms. Thompson and I ordered a drink and when the drink was brought, we ordered food. And at some time subsequent to that, I exited for the express purpose of looking for Mr. Borders and I was unsuccessful in my attempt to find him; returned to the table and so advised Essie Thompson that I had gone outside looking for friends from Washington, D.C.

Q All right. Now, have you visited the Fontainebleau since September 16, 1981?

A I have been visiting the Fontainebleau for twenty-five years, but I was there yesterday morning and I have been there since this incident on

two occasions for the express purpose of investigating for myself the events as I understood them with reference to how the Fontainebleau's arrangements are situated.

Q Judge, is there a restaurant upstairs in the Fontainebleau as has been testified--

A That is absolutely-- Excuse me, Ms. Williams.

Q Go right ahead.

A There is absolutely no restaurant at all upstairs in the Fontainebleau. If that has been an expression that has been given here, it is confused with perhaps other establishments.

The Doral, for example, has an upper roof room.

The Fontainebleau has no such room and never has have--has had, to my knowledge, and I have indicated I have been going there for well over twenty-five years.

Q All right. Now, would you please explain the layout of the eating areas at the Fontainebleau Hotel?

A Easily. When you enter into the Fontainebleau Hotel, immediately to your left-- And I

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might add the Poodle Lounge and Steak House exit and entrance have switched since the date of September the 16th.

In either event, they are still the same basic entranceways.

The Poodle Lounge and Steak House is immediately adjacent to the dining galleries. On the day of September the 16th, you could have gone from the dining galleries into the rear of the eating area of the Poodle Lounge and Steak House.

At the very same time now that area is closed off and you would have to come around a semi-circle to get to the Poodle Lounge and Steak House.

The only other eating establishments are a restaurant that is called Under the Trees that is generally not open at night and was not open on the night of September the 16th.

The other eating area would be in a place called the Gaslight which is downstairs, not upstairs and the Gaslight is either private or semi-private, such as on yesterday it was semi-private when the Superbowl was going on. They charged admission. Other than that it was a private establishment.

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The only other room where food might have been served is a major room and it is called the LaRonda and the LaRonda is the major entertaining room of the Fontainebleau Hotel.

Downstairs are two places where people might eat and it is like a coffee shop, Che Bien Bon [phonetic] and La Favorita [phonetic] and those are the only eating establishments at the Fontainebleau Hotel.

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Q Thank you. Did you know on September the 16th that Bill Borders would be attending the fight in Las Vegas?

A Absolutely not.

Q All right. Thank you.

Now, I would like to turn, again, to September 19th.

A Yes, ma'am.

Q On September 19th when Bill Borders was receiving his payoff, where were you?

A I was in Orlando, having left Port Lauderdale on Republic Airlines at 7:00 o'clock in the morning. I spoke at the Dutch Inn in Orlando, Florida, to a fraternity whose name I can't recall.

And I used to be a member of that particular fraternity. The name of the fellows, they are called--are colleagues and they are Phi Delta Tau or Phi Sigma Tau or something of that nature. Social fraternity. It has no exacting business purpose, just get together and they are professionals that are black, from throughout the country, that belong to that particular organization.

I had been invited to speak there well over a month in advance of the date of September the

19th.

I spoke and at some point in time during the course of that day, spent some time around the Orlando area which is generally home for me and I came back to Fort Lauderdale, Florida, at 10:00 p.m., leaving Orlando I believe at or about that time and arriving in Fort Lauderdale, whatever amount of time it took the Republic flight to return.

Q Did you have any knowledge of Bill Borders' meeting with Frank Romano, Paul Rico, on September 19th at the airport?

A I had no such knowledge at all with reference to where Bill Borders was or who he was meeting with or why.

Q Judge, there has been some discussion that you and your buying a house.

Did you consult with a realtor regarding the purchase of a home?

A I have been consulting over the last ten years since being divorced with realtors, if you want to call talking with them and puffing about trying to buy a house.

I have never had the down payment in those ten years. And indeed, for example, the real

estate transaction that was inquired of with reference to Jesse McCrary, I saw Ms. Martin's home. My understanding is, as of last night, Ms. Martin's home is still for sale. They wanted twenty percent down and she was going to give me a pretty good deal on the house, but I would have needed $18,000. I did not have, nor do I have and nor have I ever had $18,000 of my own money at any one time, ever.

And I did not make such a purchase.

The only other realtor that I actually consulted with at all during the summer months when this particular investigation was going on was a young black gentleman that had sold some property for my uncle who testified here at one point in time.

And he wanted to buy some dilapidated duplexes and he needed $10,000 down for those two duplexes and I indicated to him with repeated telephone calls--he called here at my chambers and my home trying to sell his--but I did not have $10,000, nor did I intend, nor did I ever purchase.

So, the answer to your question is, I have paid a lot of taxes in the last ten years and I feel that I would love to own a home because interest deductions are permitted and I just simply have never

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had the down payment. I am either on the upside or the downside of what happens when the interest rate either comes up or comes down. That is what has happened to me for the last ten years. As soon as I have the opportunity I am going to buy a house and I hope in the Miami area if this remains my duty station.

Q All right. Do you have any stocks, Judge?

A I own 150 shares of something called Kennelworth and when I bought it, it was $5.57 and I think it is now worth--they don't even print it in the sheets any more it is worth so little. But that is all of the stock I have owned.

And the only other stock I have ever owned in my life was a mutual fund which I was delighted in cashing in at one point because it, too, went off the boards.

Q All right. What about the boats and vacation homes?

A No, ma'am. I do not own a boat, nor have I ever owned a vacation home and if I had a zillion dollars I wouldn't own either.

Q A bank account in Switzerland?

A I don't own a passport, Ms. Williams.

Q Mr. Murphy testified that he had knowledge that you had traveled to the Bahamas. Do you know how he gained that knowledge?

A Yes, I certainly do. The Court permitted me to travel during the course of this investigation and some of that travel included going to the Bahamas, Abaco for example. I went fishing and the Court granted me permission to go there.

Q Did you make any bank deposits in Abaco?

A I didn't even see the bank. I know exactly where it is situated now since Mr. Murphy talked about it and it is next to a grocery store in Abaco. No, I didn't make any bank deposits, nor would I have had occasion to do so.

Q Judge, there has also been testimony that it was proved to you during the Romano trial that the Romanos had access to large sums of cash.

Were you aware of any large sums of cash that the Romanos had access to?

A There were allegations. There was no proof that the Romanos had access to large sums of cash. I recall no such actual proof and if that had been proved, the Government would have doubtlessly been able to forfeit such cash. No. Those were allegations

and, yes, they were presented during the course of the trial.

Q All right. Judge, do you have any specific knowledge, personal knowledge, regarding the security in this courthouse?

A I certainly do.

Q Would you tell us about that?

A There are very few locks and keys in this particular courthouse that have the exclusive control for those particular locks rest and repose with a few individuals.

There is a major safe here somewhere in this courthouse and documents and items of evidence that are sensitive are kept in that major safe.

So far as I know, the only persons-- I never had such whatever the thing is you need, the combination, and so far as I know, only the Chief Judge and the Clerk and perhaps now the administrator of the Courts has access to the combination to enter into that safe.

One of the things that struck me when I first became a District Court Judge is the fact that hardly any doors are ever closed here and that is the Judges'. We walk in and out of each other's chambers

without announcement and I found that a very proud kind of undertaking.

Access to the respective offices varies with the person who controls the office.

Access to my office is really, really easy, really, really general. There are keys region that people have here at this courthouse; persons who have worked here and left here and carried keys with them when they left here.

Access in and out of here is no great big problem at all.

No later than 7:15 on Friday night, just this past Friday night, I had occasion to come back here to the courthouse and go to my office on the third floor.

The maintenance crew--and there is absolutely no evidence of any dishonesty on behalf of these people--

MR. WEINGARTEN: Excuse me, Judge Hastings. Excuse me, sir. We object to this. What happened last Friday night is obviously not relevant to what happened--

THE COURT: Sustained.

JUDGE HASTINGS: Thank you.

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THE COURT: You may ask another question, Ms. Williams.

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MS. WILLIAMS: I believe that the Judge will continue to answer the question posed to him, without referring to a Friday.

THE COURT: You will restate the question, please.

BY MS. WILLIAMS:

Q Do you have any personal knowledge regarding security in the courthouse, Judge Hastings?

A All right. On the night of October the 6th, I stayed here at this courthouse late.

Q Of what year, Judge?

A 1981. Numerous times prior to leaving on the 7th of October 1981, I have had occasion to stay here at this courthouse.

When the maintenance crews come in to do the fine work that they do on my floor, they open every office on that floor, and they leave those office doors wide open, and on that floor are the offices of United States Magistrate Shapiro, Palermo and Sorrentino; on that exact same floor is the Grand Jury room; on that floor is the office of Judge Peter Fay, who is a Circuit Court of Appeals Judge, and those offices are flung wide open and anybody can walk past any one of those few maintenance people and go into

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those offices. And files are there for them to peruse, if they so desire.

Whether or not that happens, I can never say. But is it possible? Indeed, it is. Security is very lax in this courthouse, and that is a primary concern of Judges, and has been since I have been a Judge.

Q Thank you. Judge, did you have occasion to personally review the file of the informant, William C. Dredge, in Baltimore?

A I did, and he was charged--

MR. WEINGARTEN: Excuse me. Excuse me. I would like to approach the Bench on this.

THE COURT: Counsel may approach the Bench.

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MR. WEINGARTEN: I was under the impression the Court had ruled on this line of inquiry, but at the very least, I would ask for a proffer at this time.

MS. WILLIAMS: Was it a part of your motion in limine?

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MR. WEINGARTEN: I would ask for a proffer at this time.

MS. WILLIAMS: Oh, well, Judge, I am aware of no ruling thus far--

THE COURT: What is the proffer?

MS. WILLIAMS: He is going to testify yes, that he has reviewed in detail the criminal file of William Dredge in Baltimore; that he learned as a result of that what he was charged with, and the fact that he was running around, trying to find a way of getting out of what he was charged with, with the government; and that he finally succeeded in doing so.

THE COURT: Is there objection?

MR. WEINGARTEN: Yes, there is an objection. And I believe the Court has ruled that it is not at issue. His credibility is not at issue.

This type of evidence is not relevant.

THE COURT: The objection is sustained. The Court has ruled on this several times during the course of this proceeding, and Mr. Dredge is not a witness. His credibility is not at issue.

If there is any question of government misconduct, as the Court has previously indicated, that is the subject of a separate motion, and will be

addressed to the Court and not the jury.

MS. WILLIAMS: Okay.

[Sidebar conference concluded and the following proceedings were had in open court:]

THE COURT: The objection has been sustained, ladies and gentlemen.

BY MS. WILLIAMS:

Q Judge, did you speak with witnesses who appeared in this trial proceeding, or who have not appeared, who were interviewed by the FBI?

A Numerous of those witnesses.

MR. WEINGARTEN: Excuse me. I am going to object again, and ask that we approach the Bench.

THE COURT: All right. Counsel may approach the Bench.

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MR. WEINGARTEN: Again, I ask for a proffer.

MS. WILLIAMS: He is going to testify that he did, that these witnesses did call him and tell him that the FBI was harassing them about coming

in here to testify, and that to some extent he was unable to get some witnesses in here to testify because of that.

MR. WEINGARTEN: That's obviously irrelevant, your Honor. A, it is hearsay; and, B, the conduct of the FBI in conducting its investigation is--

MS. WILLIAMS: It wasn't in conducting its investigation. It's since this trial has begun, your Honor.

THE COURT: I understand that. But if the FBI has been harassing witnesses and so forth, that would come as a rubric of government misconduct, obviously. The objection is sustained, both as irrelevant and hearsay.

[Sidebar conference concluded and the following proceedings were had in open court:]

THE COURT: The objection to the pending question has been sustained, and the witness' answer will be disregarded. It is stricken from the record.

MS. WILLIAMS: Thank you, your Honor.

BY MS. WILLIAMS:

Q Judge Hastings, you indicated that William

Borders called you from Jesse McCrary's office sometime late in August?

A Yes.

Q Did he also call you in early September?

A Yes, he did.

Q Can you recall about when that was?

A September the 1st or the 2nd.

THE COURT: Is this '81 again?

THE WITNESS: '81, yes, your Honor. I am awfully sorry.

BY MS. WILLIAMS:

Q Judge, have you had occasion to review Borders' telephone records?

A I have those that were provided to us by the United States Government.

Q Judge, I hand you what has been marked Defendant's Exhibits 47, 48 and 49. Would you identify for the ladies and gentelmen of the jury what they are? Start with 47.

A Exhibit 47 are toll records and telephone information from a point in July, apparently, until sometime in November, of Mrs.Alberta Borders, at 28 - 50th Street Northeast, Washington, D.C., and the specific telephone number for that particular address.

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Q All right. Judge, I direct your attention to call No. 11, I believe it is, on that particular toll record.

THE COURT: Until it has been received in evidence--

MS. WILLIAMS: Your Honor, at this time I respectfully move into evidence Defendant's Exhibit No. 47.

MR. WEINGARTEN: No objection.

THE COURT: There being no objection, Defendant's Exhibit 47 is admitted.

[Defendant's Exhibit No. 47 was received in evidence.]

MS. WILLIAMS: Sorry, Judge.

Q I direct your attention to items Nos. 4, 5 and 7 on that toll record.

A Yes.

Q What is the date of the call and the number to which the call was placed?

A The date of the call is June 14th. The number to which the call--would-be call is placed, a nine-minute call, is 758-5707.

The next number, 5, is June 16th, the same telephone number, Area Code 305-758-5707. That's a two-minute call.

And item 7 is June 18th, 758-5707. That, too, is a two-minute call.

Q Do you recognize the phone number to which the calls were placed?

A The telephone number 758-5707, is a number that I have called frequently, and that is the home telephone number of attorney Jesse McCrary.

Q All right.

At this time, Judge, I would direct your attention to Defendant's Exhibit No. 48 for identification

A Yes.

Q Would you identify that, please?

A This is an excerpt of toll records for

specific dates for James W. Cobb, and Mr. Cobb is the associate, or was the associate and partner of William Borders at one point in time.

MS. WILLIAMS: At this point, your Honor, we would move into evidence Defendant's Exhibit No. 48.

MR. WEINGARTEN: No objection, your Honor.

THE COURT: There being no objection, Defendant's Exhibit No. 48 is admitted.

[Defendant's Exhibit No. 48 was received in evidence.]

BY MS. WILLIAMS:

Q At this time I would refer you to Item No. 7 on that toll record. Would you tell us, please, the number to which the call was placed, and the date, and the duration of the call?

A Item No. 7 on Defendant's Exhibit 48?

Q Yes.

A Item No. 7 is to Durham, North Carolina, and it's 596-8181. There are two or three item 7's on here.

Another one is to North Dade, 945-9939.

Q Just a moment, Judge. Let's make sure we have the same exhibit.

Judge, I direct your attention to Item

Nos. 10 and 15 on that toll record.

A The second No. 10?

Q Yes.

A I have it in hand.

Q Yes.

A And that's a call from the office number where William Borders at that time was a partner. The date is September the 10th, and the call is placed to Miami, Area Code 305-350-4279, and that's a four-minute call; and I believe that that's already in evidence here.

Item No. 15--

Q Judge, whose number is that 350-4279?

A That's my number.

Q All right. Fine. And item No.--

A Here at the Chambers & the United States District Court.

Q Right.

A Item No. 15 appearing at the top of Defendant's Exhibit 48, is a call on September 1st to Miami, Florida, Area Code 305-350-4279, and that's a four-minute call, and that, too, is directed to my Chambers.

Q Judge, could that be the call in early

September from Bill Borders, to which you just referred?

A That would be the call, and I think I referred to it in August that I had spoken with Mr. Borders when he was here, and at some time subsequent thereto, I firmed up my reservations and gave them to him; and that would have been when that would have occurred.

Q All right. Now, Judge on Defendant's Exhibit 49--

A Defendant's Exhibit 49 are excerpts, as well, from the office of James Cobb, where Bill Borders was situated, and at another number.

Q All right. For what time period?

A This is July, August, some in June.

Q All right; thank you.

A Mostly July and August.

MS. WILLIAMS: All right. Thank you.

At this time, your Honor, we would move into evidence Defendant's Exhibit No. 49.

MR. WEINGARTEN: No objection.

THE COURT: There being no objection, Defendant's Exhibit No. 49 is admitted.

[Defendant's Exhibit No. 49 was received in evidence.]

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Q Judge, I would direct your attention to Item No. 11.

Is there a phone call there dated 7/24?

A The second column, Item No. 11, dated July the 24th, is a phone call to a number in Columbia, South Carolina, being Area Code 803-777-7716, and that call was for five minutes.

Q Do you recognize that number?

A The number is a number where Kemphill Pride may have been working. I am not certain whether he was working there or not, but I have called that number myself.

Q All right. And that call was made by Bill Borders to Hemphill Pride on July 24th?

A On July 24th, correct.

Q All right. Judge, on the first exhibit, 47--

A Yes.

Q --we did not complete all of the calls there.

On the second page of that toll record--

A Yes.

Q --Item No. 7, there should be a call

dated July 10th.

A July 10th. That call to the same number that we had previously talked about?

Q What number is that, Judge?

A 758-5707, Attorney McCrary's home number.

Q All right. And Item No. 11 dated 7/13.

A Also to Attorney McCrary's home number.

Q Okay. On the fifth page of that toll record, Judge, Item No. 12.

A Yes.

Q There should be a call there dated September 10th.

A September the 10th, 1981.

Q To whom is it placed? To what number is it placed?

A It is placed to Mr. McCrary's home number, September 10th, Area Code 305-758-5707. And that is an eight-minute call.

Q All right. So on September 10th, Bill Borders spoke with Jesse McCrary for eight minutes?

A Ms. Williams, on September 10th, a call was place from a place where Bill Borders could have

been to Mr. McCrary's home. I do not know whether they spoke and I cannot say that.

Q All right. On September 10th, a call was placed from the offices of Bill Borders to the home of Jesse McCrary?

A Yes.

Q And there was an eight-minute conversation?

A That is correct.

Q Now, September the 10th is the date of the departure of Jesse McCrary for the meeting in Washington, D.C.; is that correct?

A Norfolk, Virginia, where Mr. McCrary was going some time during that period of time and it would have been two days before Mr. McCrary and I were at the Sheraton-Washington Hotel on September the 12th.

Q All right. Judge, did you have occasion to review the telephone records of William Dredge?

A Indeed, I did.

Q Do the toll records that you reviewed of William Dredge reflect calls to William Borders from William Dredge?

A Too numerous to mention without great prolixity.

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MR. WEINGARTEN: May we approach the Bench?

THE COURT: Counsel may approach the Bench.

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MR. WEINGARTEN: Your Honor, I have in my hand Defendant's Exhibit 50 which appears to be phone records for Mr. Dredge's place of business from March '81 through November '81. I also note there appears to be a portion removed.

THE COURT: What are the dates?

MR. WEINGARTEN: March '81 to November '81. I would ask for a proffer at this time before we frame the specific objection.

MS. WILLIAMS: Your Honor, we just are introducing the Dredge toll records to show the numerous calls placed by William Dredge to William Borders. It is simple.

MR. WEINGARTEN: Well, how come there is a part missing?

MS. WILLIAMS: That is the way it came to us, just that way.

Hastings --direct

MR. WEINGARTEN: It seems perfectly clear that what may be admissible at time periods that are relevant to the case, certainly not periods beyond the indictment--

MS. WILLIAMS: No, Judge, we intend to show that there was some kind of relationship that existed between William Dredge and William Borders prior to this conspiracy that continued through it, that there was contact between William Dredge and Bill Borders over which the Government had no control and the jury can infer from that whatever they like, but the fact of the matter is that there was a relationship that brought about numerous calls from William Dredge to William Borders and vice versa.

You will find on Borders' toll records numerous calls to William Dredge. We think it is very relevant.

MR. WEINGARTEN: What concerns me is there appears to be a portion in December that is removed.

MS. WILLIAMS: Judge, I represent to you that those records came to us just like that.

THE COURT: Where did they come from?

MS. WILLIAMS: Southern Bell.

There is attached to the front of it the letter that I sent to them or the letter that they sent to me saying they were attached.

MR. WEINGARTEN: All right. We will withdraw the objection. No objection.

THE COURT: No objection? Defendant's Exhibit 50 is then admitted in evidence.

MR. WEINGARTEN: Yes.

[Sidebar conference concluded and the following proceedings were had:]

THE COURT: Defendant's Exhibit 50 has been admitted in evidence without objection. Perhaps they should be identified for the jury.

[Defendant's Exhibit No. 50 was received in evidence.]

MS. WILLIAMS: Yes, your Honor.

BY MS. WILLIAMS:

Q Judge, would you please identify for us Defendant's Exhibit 50?

A Defendant's Exhibit 50 are in response to a 17(c) subpoena sent by you, Ms. Williams, to Southern Bell. They replied by supplying to you the telephone toll records for Bill's place, an antique store, located at 12320 West Dixie Highway and didn't supply to you

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at this time on December 21, 1982, the records for a residence of Mr. William Dredge which later comes to be known as Howard Schlosser [phonetic] as opposed to William Dredge.

Q Judge, are those the toll records for William Dredge's phone that you reviewed in determining that there had been numerous calls placed by him to William Borders?

A Numerous calls placed by him to William Borders, yes.

Q All right.

A Ms. Williams, from Bill's antique place to a number 387--

Q Thank you for the correction, Judge.

A All right.

Q Did William Borders ever ask you to aid William Dredge in any way?

A Yes, he did.

Q Would you tell us about that?

A In July on either the 18th or the 19th, I was in Washington for two purposes. One was to attend an American Bar Association agency sub committee meeting of the standing committee on professional practices and discipline and the second purpose was to

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meet personally with the then executive director of the Urban League. I saw Mr. Borders very briefly and he asked me if I would prepare an affidavit for a client of his.

MR. WEINGARTEN: Excuse me for one second.

May we approach the Bench?

THE COURT: Counsel may approach the Bench.

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MR. WEINGARTEN: I request a proffer. I have a feeling they are going to get into an objectionable area. I request a proffer.

MS. WILLIAMS: He is just about completed it. William Borders ask that he prepare some kind of affidavit. Williams Borders did represent Dredge at one time. I assume you know that.

MR. WEINGARTEN: William Borders represented Dredge?

MS. WILLIAMS: Yes.

MR. WEINGARTEN: Yes, I know that.

MS. WILLIAMS: William Borders asked

Alcee Hastings to prepare an affidavit concerning the good character or whatever of William Dredge so that he could present it in whatever proceedings he was representing Dredge in and the Judge, of course, had to say he could not do that because he had never heard of a William Dredge or knew anything about him or--

MR. WEINGARTEN: And that is relevant why?

My objection is on the basis of relevancy.

MS. WILLIAMS: It goes again to the relationship that existed between William Borders and William Dredge that seems to be of non-interest to the Government, but which we think is relevant to this case.

THE COURT: Is that all you are going to ask?

MS. WILLIAMS: That is all I am going to ask him about is that.

MR. WEINGARTEN: I can't see it being relevant. I think it is a closer question than some of these others.

THE COURT: The Court will permit the answer to this question. If you are going to ask any further question, ask to approach the Bench.

OFFICIAL COURT REPORTERS
U.S. DISTRICT COURT
MIAMI, FLORIDA 33101

Hastings - direct

MR. WEINGARTEN: All right. Thank you.

[Sidebar conference concluded and the following proceedings were had in open court:]

THE COURT: Perhaps the reporter had best read the question back to the witness.

[The question referred to was read back by the reporter as above recorded.]

Hastings - direct

THE WITNESS: That is the one I can answer?

THE COURT: Yes. I believe Miss Williams indicated the question was asked, what he asked you to do.

THE WITNESS: All right. He asked me to prepare a character affidavit for William Dredge, with reference to the case that Mr. Dredge had in Baltimore, Maryland.

BY MS. WILLIAMS:

Q And did you do so?

A No, I did not, and I was adamant about it.

Q Why?

A I did not know William Dredge, and I thought it was ridiculous for him to ask me to prepare something for someone that I did not know.

Q All right. Judge, do you know, first of all, when William Borders was traveling, he frequently routed himself through Atlanta?

A Yes, I do.

Q Do you know why he would do so?

A Yes. He had a girl friend in Atlanta, and I don't know her name, and I have never met her.

Hastings - direct

Q Judge, did you analyze the telephone toll records of Hemphill Pride?

A I was unsuccessful in being able to do that, for the reasons beginning over a year ago and dating until as late as two weeks ago, the Telephone Company in South Carolina has not supplied the information to me, pursuant to the request we made by way of subpoena.

MS. WILLIAMS: Madam Clerk, may I have the itinerary for October for Judge Hastings? Thank you.

BY MS. WILLIAMS:

Q Now, Judge, this is Defendant's Exhibit 18, the itinerary for your travel for the month of October.

A Yes.

Q Were you scheduled to travel after October 9th ?

A Yes, I was.

Q Okay. Would you tell us about that travel?

A After October 9th, I was scheduled to leave Washington, D.C., on the 11th, and to go to Orlando, Florida, where I was speaking to the 369th Veterans' Association, which is a national organization.

I did not make that particular speech, because of the incidents as they have arisen here.

On October the 14th--on the 12th, rather, I would have been scheduled to return from Orlando to Miami, Florida.

On the 14th, after returning here for the express purpose on a holiday and the day following, of trying a kid--under the law a juvenile--and he had been there for what I thought was too lengthy a period of time for a juvenile, and the time was fast speeding, so I came back home for that express purpose.

I would have left on the 14th for Louisville, Kentucky, where I would have been in attendance at an American Bar Association Professional Practices and Discipline Committee meeting that was being held in the home of the new Chair, Mr. William Warner, from Louisville, Kentucky, and I would have been there until the 16th, whereupon I would have traveled on to Dayton, Ohio to--

As I indicated, I don't get very many vacations. October was going to be sort of a working vacation for me, and one little period where I wouldn't have been doing any work at all, I was going to visit with my college roommate for two years, whose name is

Ronald Clark, and his wife and his family.

In Dayton, Ohio, Ronald or his brother Macio, were supposed to then assist me to get to Columbus, Ohio, where I was to speak to the American Affirmative Action Association Regional Meeting, having been invited to speak there sometime in the month of either May or June, when I spoke in Cincinnati, Ohio, the principal there invited me to come.

From Columbus, Ohio, I was going on to Orlando, Florida, on the 22nd of October, and I would have been in Orlando on the 22nd of October for the express purpose of a two-day meeting at Bethune Cookman College, where I am a member of the Board of Trustees in Bethune Cookman College, in Daytona.

And then I would have had the option, and my secretary and I had discussed the potential options. If all my cases had capsized, I would have remained in the Orlando area, visiting with relatives in Altamonte Springs.

If I had business here, I would have returned to Miami after the Board of Trustees meeting in Daytona.

Q And you characterize all this travel as a working vacation; is that correct?

A Yes. It was a working vacation.

Q All right. Now, Judge, did you call Hemphill Pride from your office?

A I certainly have called Hemphill Pride from my office.

Q All right.

MS. WILLIAMS: Would you mark this, please, Madam Clerk?

BY MS. WILLIAMS:

Q Judge, I hand you what has been marked Defendant Exhibit 51. Would you identify it, please?

A Yes. Defendant Exhibit 51 are excerpts of toll records for the period September, May, April, August, July, October, September, June, March and April of 1981, dating for three years, apparently three telephone numbers, or maybe from time to time, unless--I would think for three different telephone numbers in my Chambers; and these are excerpts.

Q All right.

MS. WILLIAMS: At this time, your Honor, we would move into evidence Defendant Exhibit 51.

MR. WEINGARTEN: No objection, your Honor.

THE COURT: There being no objection,

Hastings - direct

Defendant Exhibit 51 is admitted.

[Defendant's Exhibit No. 51 was received in evidence.]

BY MS. WILLIAMS:

Q Judge, would you tell us about the first call that I have indicated with a little check on the front page, there?

A The first call would be Item 2 under the second full itemization column, and it is a call placed from the number 350-4279, to Columbia, South Carolina. And the call is a five-minute call, and it is placed on September 2nd, at 11-something in the morning.

Hastings - direct

Q And to whom was that call placed?

A I know for a fact that this particular call was placed to Hemphill Pride.

Q Did you speak with Hemphill Pride?

A I certainly did.

Q On that day?

A I certainly did.

Q All right. Now, would you seek out the second call that I have indicated on those toll records with a little check?

A May 5th.

Q May 5th?

A '81. I spoke with Mr. Pride.

Q For how long?

A Five minutes.

Q Judge, there should be one more for July 21st.

A Yes. I spoke with Hemphill Pride on July 21st. That was in advance of the National Bar Association meeting.

Q All right. Now, the toll records that I have just handed you, would you say that those toll records are complete; that they represent all the calls made from your Chambers during the time period

involved there?

A It is difficult for me to say that. I only know by way of information that the--I think they are called the Federal Telephone Service, FTS.

Q Yes?

A Or whatever, Federal Telephone System; whatever it is called.

I don't know whether they record all of your toll calls or some of them. I don't know whether they record toll calls that are made without the use of the Federal Telephone System, or whether or not they recall all of the ones that are used through the Federal Telephone System.

My understanding is they only glean excerpts of about ten percent of all the calls. I know this: That I have called Hemphill Pride in the month--I mean in other months, from my Chambers, other than those that are reflected here, but not always from the 350-5427 number; and I am not certain that all of these records are actually complete, with reference to who is called, or who may have called whom.

Q All right. Thank you.

Now, did you speak with Hemphill Pride at length once from the telephone in my home?

A I certainly did.

Q Judge, I am handing you Defendant's Exhibit 52--

A All right.

Q --for identification, please.

A For purposes of identification, this is a page of excerpts for the month of July and August, of telephone calls placed at the residence of yours, Miss Williams, 2401 Northwest 43rd Terrace, 733-1697.

Q I refer you to the date of August 2nd, the call made for eighteen minutes. Would you give us--

A Is this in evidence already?

MS. WILLIAMS: At this time, your Honor, we would move into evidence Defendant Exhibit 52.

MR. WEINGARTEN: No objection.

THE COURT: There being no objection, Defendant Exhibit 52 is admitted.

[Defendant's Exhibit No. 52 was received in evidence.]

BY MS. WILLIAMS:

Q Judge, I direct your attention to the August 2nd call.

A Yes.

Q The one for eighteen minutes' duration?

A Yes.

Q Would you tell us what time that call was placed?

A 9:20 in the morning, to Columbia, South Carolina, to a place that I know is the number of Hemphill Pride, and it was an eighteen-minute call.

Q And did you, in fact, speak with Hemphill Pride for eighteen minutes on August 2nd?

A Yes, I did; and this was the call that I believe was in advance of--and I don't want to be absolutely certain of this, but this was in advance of his first attempt to meet with the Chief Justice of the South Carolina Supreme Court.

Q Judge, did you ask some of your friends to assist Hempy by writing character letters, on or about October 5th?

A I didn't ask them to write character letters. I asked certain friends of mine that are mutual friends of Hemphill's, to be prepared to do so, and those persons were my cousin, Gordon Merit, Paul Snead, Delanore Stewart, and Jesse McCrary. They are the only ones that I spoke with.

I had in mind speaking with numerous others before the course of events took place, as they

did.

Q All right. Now, when you were in Washington, D.C. on September 12th, subsequent to leaving there, you were at the Sheraton September 12th--did you believe that Hempy traveled back to D.C. and met with Bill Borders?

A On September 12th, my understanding was that Bill Borders expected to see Hemphill when he was returning from Atlantic City.

Q All right. One other thing, Judge. Did you tell your mother on October 9th not to tell people where you were?

A October 9th being the day when I got home, left the airport, went to my mother's house?

Q Yes.

A And spoke with my mother?

Q Yes.

A I certainly did. That was an extremely disturbing day, and it is not the only time I have told my mother to tell people she didn't know where I was; but on that particular day I certainly did. She knew the persons that would have been important, either the FBI, the United States Marshal, Chief Judge Atkins, or any other Judges, or any member of my staff.

2053-A

Other than that, she was instructed that my whereabouts were unknown.

Hastings - direct

Q Judge, I need you to identify some other exhibits.

A All right.

Q Judge, I have handed you what has been marked as Defendant's Exhibits 53, 54, 55 and 56.

A All right.

Q What is Defendant's Exhibit 53, please?

A Defendant's Exhibit 53 is a Hilton Reservation Service reservation for the Washington Hilton in Washington, D.C.

MS. WILLIAMS: At this time, we would move into evidence Defendant's Exhibit 53.

MR. WEINGARTEN: No objection.

THE COURT: There being no objection, Defendant's Exhibit 53 is admitted.

[Defendant's Exhibit No. 53 was received in evidence.]

BY MS. WILLIAMS:

Q Judge, is that the reservation that was made by your secretary for you for the Hilton for October the 9th?

A It is made for the day of October the 9th and it shows a departure date of October the 10th and on October the 1st is when the reservation itself

was made for the Hilton reservation.

Q All right. Did you stay at the Hilton?

A No, I did not. I stayed at the L'Enfant Plaza.

Q And will you identify for us Defendant's Exhibit 54?

A Defendant's Exhibit 54 is the reservation check-out for the Sonesta Beach Hotel and Tennis Club on Key Biscayne.

MS. WILLIAMS: At this time, your Honor, we would move into evidence Defendant's Exhibit 54.

MR. WEINGARTEN: No objection, your Honor.

THE COURT: There being no objection, Defendant's Exhibit 54 is admitted.

[Defendant's Exhibit No. 54 was received in evidence.]

BY MS. WILLIAMS:

Q For what date is that bill, your Honor?

A This bill is October 3rd and October 4th of 1981, and I was in attendance at a Florida Chapter of the National Bar Association's meeting on the night of the 3rd. I spoke for Judge Wilkie Ferguson. They had a testimonial for him. I stayed at the motel

Hastings - direct

for those two nights.

Q Would you identify Defendant's Exhibit 55?

A 55 is a check-out bill for the Detroit Plaza Hotel Renaissance Center in Detroit, Michigan.

MS. WILLIAMS: At this time, your Honor, we would move into evidence Defendant's Exhibit 55.

MR. WEINGARTEN: No objection, your Honor.

THE COURT: There being no objection, Defendant's Exhibit 55 is admitted.

[Defendant's Exhibit No. 55 was received in evidence.]

BY MS. WILLIAMS:

Q What are the dates at the Detroit Plaza Hotel?

A Beginning on July 26th, leaving on the day of the 30th and that was during the National Bar Association's annual meeting that has been testified to here about.

Q Is there another exhibit there?

A Yes, there is.

Q Defendant's Exhibit 56, would you identify that, please?

Hastings - direct

A This is my check to the Gala celebration for president of the National Bar Association and this was the check in response to Barbara Whiting's letter where I accepted sponsorship responsibilities for the Gala affair and that was being held for William Borders on October the 9th, 1981.

Q Thank you.

MS. WILLIAMS: And we would move into evidence, at this time, Defendant's Exhibit 56.

MR. WEINGARTEN: No objection.

THE COURT: There being no objection, Defendant's Exhibit 56 is admitted.

[Defendant's Exhibit No. 56 was received in evidence.]

BY MS. WILLIAMS:

Q Judge, did you dine at the Fontainebleau Hotel on September 16, 1981, to show your participation in a bribery scheme?

A Absolutely not.

Q Did you tell William Borders at any time about the substance or the timing of your October 6th order in the United States vs. Romano case?

A Ms. Williams, not only did I not tell Bill Borders the substance and the timing of the order,

Hastings - direct

I could not have known the substance of the order until Jeffrey Miller prepared it. Jeffrey did the calculations with reference to that order on that date.

In addition thereto, I could not have told him about the timing for the reasons that I did not know when it was that Jeffrey was going to complete the order, save the fact that I had instructed him on October the 6th to do the order on that particular day.

Q All right. Have you received moneys from William Borders with regard to the issuance of that order?

A I have never received any kind of money from William Borders with reference to that order and not even a loan, at any time during the course that I have known him.

Q Did you agree with and conspire with William Borders to influence, in any way, the performance of your official judicial duties?

A No, I did not.

Q Did you agree with Bill Borders and intend knowingly and voluntarily to participate in any kind of illegal undertaking?

A None whatsoever. I did not do that, nor would I have done so, nor would I now.

Hastings - direct

MS. WILLIAMS: Judge, no further questions.

THE COURT: Shall we take our mid-morning recess before cross?

MR. WEINGARTEN: Please, your Honor.

THE COURT: That completes direct examination, ladies and gentlemen. We will take our mid-morning recess at this time for fifteen minutes.

[Recess was taken, after which the following proceedings were had:]

(After recess, 11:05 a.m.)

THE COURT: Good morning, ladies and gentlemen.

(Replies of "Good morning, Your Honor.")

THE COURT: And the cross examination may proceed.

Mr. Weingarten?

MR. WEINGARTEN: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. WEINGARTEN:

Q I would like to begin with your relationship with Mr. Borders.

A Yes, sir.

Q You testified that you are friends with Mr. Borders, is that correct?

A That is correct, Mr. Weingarten.

Q Long-time friends?

A I have known Mr. Borders rougly some time inside of twenty years, I would think, but we have been personally allied politically and philosophically for the last ten years, particularly through the National Bar Association.

I think I also said that Mr. Borders is not a running partner. He is not my bosom buddy.

Q Well, you certainly do socialize with Mr. Borders, do you not?

A I socialize with Mr. Borders here in South Florida and in Washington and in other cities throughout the United States and in the Bahamas.

Q Did you ever enter into any business deals with Mr. Borders?

A I have had no business arrangement with Mr. Borders at all, sir.

Q Did you ever invest any money with Mr. Borders?

A I never invested any money with Mr. Borders. The stock that I told you about a moment ago, Kennilworth, was on a tip from Mr. Borders that was supposed to be so big; I was supposed to be able to make a killing, and it killed me.

(Laughter)

Q So, in fact, you invested money pursuant to his advice?

A Only on that one occasion and that was a stock tip. I have also invested on some other folks' advice and it didn't work out as well.

Hastings - cross

Q Did you ever contemplate entering into any investment with Mr. Borders?

A None whatsoever. I had no occasion to do so.

Q You two have never discussed common investments?

A We had talked about trying to make money and I do that with just about all the lawyers all the judges and everyone that I know, but I have no occasion to discuss common investments, Mr. Weingarten, because I don't have a lot of money.

Q Now, there's been some testimony about telephone traffic between Mr. Borders and you.

A Yes,sir.

Q Did Mr. Borders frequently call yoj?

A Did he frequently call me?

Q Yes.

A Yes, here at the office here, at home and before I was a United States District Court judge, when I was a state court judge and when I practiced law.

Q And do you frequently telephone him?

A I have on occasions. It depends upon the circumstances. For example, when I was seeking to become a judge of the United States District Court, because

of Mr. Borders' influence, it appears that I called him a great deal then and during President Carter's seeking to become the President of the United States, I talked with Mr. Borders at least weekly, but the level of frequently shifts.

Q Is it fair to say the telephone traffic goes both ways?

A Indeed.

Q Do you know Madelaine Petty?

A I only know Madelaine Petty in the sense of I know that she has a relationship with William Borders.

Q And did you know that back in the spring and summer of 1981?

A Only the name. I did not know the lady.

Q To your knowledge was William Borders personally acquainted with anyone on your judicial staff?

A Not to my knowledge, sir, but there are people that are on my judicial staff that either came from Washington or went to Washington after they finished working with me.

Q Well, let me ask the question again so it will be perfectly clear : To your knowledge is Mr. Borders acquainted with anyone on your staff?

A No, but I don't know everybody that Mr. Borders is acquainted with.

Q You have described Mr. Borders as a secretive guy, is that a fair characterization?

A I told the FBI that and that's what they say. We are going to get to that. I told them he was cloak and dagger, clandestine and sometimes cryptic.

Q Is that a fair characterization?

A In my considered opinion, with the exception of maybe cloak and dagger, because that assumes he is going to do something nasty to somebody, I would think the rest of it, cryptic, clandestine and secretive, yes, sir.

Q The type of person who frequently wouldn't tell people where he is going or what he is doing?

A Indeed.

Q Did you ever tell Mr. Borders about the Romano case?

A Not once.

Q Did you have any contact at all with Mr. Borders about the Romano case?

A Mr. Weingarten, I believe I told Mr. Simmons and Mr. Harrigan that at the National Bar Association meeting in July that I was rather excited

about the forfeiture aspect of it.

Q Judge Hastings, my question is, did you ever have contact with Mr. Borders concerning the Romano case?

Can you answer that question, please.

A Mr. Weingarten, if you will let me answer, I will answer you.

At the National Bar Association meeting, sir, I spoke about forfeiture to at least twelve or thirteen defense attorneys in a room that I believe Mr. Borders was in. But I never had any such contact with him, nor did I call the Romanos' name, but I did talk about the RICO statute in July at the National Bar Association meeting.

Q All right. Let's talk about the Romano case if we can.

A Sure.

Q What were the charges?

A They were charged with a variety of conspiracy matters having to do with skimming money away from a labor union in New Jersey and the converting that money according to the Government into property for their own use and/or money for their own use.

Q All right. Is it fair to say the charges

were three: Racketeering, tax fraud and mail fraud?

A That's a fair characterization, but it's an overview because substantively, the charges were much more pronounced than that.

Q Well, is it fair to say that the core of the crime was the scheme by the Romanos to bilk the New Jersey Teamsters Fund?

A Yes.

Q Now, the Romanos were two, Thomas and Frank, is that right?

A That is correct.

Q And Thomas was the one who is very sick, is that right?

A We went to the hospital for Mr. Romano and his doctor said he was sick, sir.

Q Now, is it not apparent from the charges and from the trial that was before you, that the Romanos did in fact have cash that was outstanding?

A Mr. Weingarten, there would be no question in my mind but that the way that the situation came up, that the Romanos could easily have had access to substantial sums of cash, but in the case itself, one of the missing links, it appeared, was the fact that they didn't have that. But I didn't -- I had no doubt

but if the Romanos needed to raise money, that they could.

Q Well, originally the forfeiture was 1.2 million dollars, is that not correct?

A That is correct.

Q And the cash component, the $850,000, was never found by the Government; isnt that right?

A That is correct, but there is an addenda to that.

You see, I had the benefit of a probation report that reflected in one of the Romanos' bank account, only $10,000, Mr. Thomas Romano, and $80,000 in the account of Mr. Frank Romano, and a $6,000 plus rental that they received from a wrap-around mortgage at the Sea Inn. I think what you're driving at is did I know that the Romanos could have money and the answer to that is yes.

Q And did you also find out from the trial and the proceedings before you that the Romanos are the type of people who will pay other people off?

A There was some La Cosa Nostra talk that was raised by the Government, and I think if you will review the record, you will find that upon proper objection, that a lot of that did not get in. I do

believe--

Q Well, the objection is made to you, was it not?

A That is correct.

There was some allegation -- there was no proof regarding that, but if what you are saying is that the Romanos are involved or would have been involved in bribery, then you ought to indict them.

Q Were those allegations made to you?

A Those allegations were made during the course of the trial, Mr. Weingarten.

Q So you were aware of them, were you not?

A Of course I was.

Q Thankiyou, sir.

Now, did you know of the Romanos prior to the indictment and the trial before you?

A I never knew of Thomas and Frank Romano. I had had dinner at the Sea Inn before I ever knew their name and I had lived at the Executive Inn before I ever knew their name. The Executive Inn is less than 500 yards from my house.

Q How does the Executive Inn play into this?

A The Executive Inn was also a part of the property that the Romanos developed under either KRR or IOTA, Inc., one of their spin-off subsidiary corporations.

Q I am not sure I understand your testimony.

Your testimony is that you had dinner at that place prior to the trial?

A Oh, I have been to the Executive Inn on a number of occasions. The Chamber of Commerce of West Broward meets there. I have attended political rallies. I have been to the Sea Inn restaurant in Hallandale once before I ever knew the Romanos' name.

Q Did you know the Romanos personally before the trial?

A Absolutely not.

Q Had you ever met them?

A Not to my knowledge.

Q Had you ever heard of them?

A Not to my knowledge.

Q They were found guilty in December 1980, by the jury; is that right?

Hastings - cross

A That is right.

Q You have a little chart before you, Government's Exhibit 1.

A Yes.

Q December 23, 1980.

A Yes, I have it.

Q Now, subsequent to the guilty verdict, there was a proceeding before you when you had to decide whether or not certain property would be forfeited; is that right?

A That is correct.

Q Is it fair to say the property fell into two categories, a restaurant, the Sea Inn and cash?

A Yes.

Q And the restaurant, worth about $350,000, roughly, and cash worth about $850,000?

A I wouldn't believe that about the restaurant. I would think that restaurant is worth more than $350,000. That might have been the readout on it, but when it was ultimately sold to Sheldon Golden, it was not sold for $350,000.

Q Well, just so that there is an understanding.

You forfeited or ordered forfeited on

May the 4th, a million two in property.

A That is correct and that was the law in the then Fifth Circuit in which this Court contemplates it is precedent.

Q And is it fair to say the 1.2 million dollars was comprised of two things, the Sea Inn and cash that had been generated by the Romanos corrupt activity?

A Yes, Mr. Weingarten, and I repeat for you, I know that the Romanos in May and in June and in July and doubtless today, could raise large sums of money if they had to.

That would be my belief.

Q All right. I am not interested in that right now, Judge. Thank you.

A Oh, okay.

Q Just so that we are clear on this point of the 1.2 million dollars forfeited on May the 4th--

A Yes, sir.

Q --that property is comprised of two things, the Sea Inn restaurant and the cash that had been generated by the Romanos' corrupt activity?

A Yes.

Q And on May the 4th, you ordered both

forfeited?

A That is correct.

Q Okay. And did you call Mr. Borders that day, May the 4th, 1981?

A I don't know if I did.

Q I hand you what has been marked Government's Exhibit 34.

A All right.

Q And I ask if you can identify it, please.

A Okay. It is a message from me on the date of May 4th:

"Will wait call between 12:00 and 1:00 from you."

Q Do you recognize that to be Cindy Rogers' notes?

A I believe so.

Q And did you, in fact, call Mr. Borders on May the 4th, 1981?

A It would appear that that is the case. I have no independent recollection of having done so, and I indicated to you I am not sure, but I didn't believe that I did.

Q And, of course, that call would have nothing whatever to do with the forfeiture order on May

the 4th?

A Well, now, you are going to get an explanation. Indeed, it would not have had anything to do with that because I was then taking the money from the Romanos and I am sure if you think there was a scheme between Mr. Borders and I, you wouldn't think that I would be calling him to tell him I am taking the money from them.

[Laughter.]

Q Of course, your explanation is that--

THE COURT: There will be no laughter, no noise at all, from the spectators.

BY MR. WEINGARTEN:

Q So it is your testimony that you were not telling Mr. Borders anything on May the 4th about that forfeiture order?

A No. My testimony is I have no independent recollection of the call, Mr. Weingarten.

Q Well, could that call have been involving the Romanos?

A It could not possibly have been involving the Romanos.

Q Okay.

MR. WEINGARTEN: We move into evidence

Hastings - cross

Government's Exhibit No. 34.

THE WITNESS: 34.

THE COURT: Is there objection?

MS. WILLIAMS: No objection.

THE COURT: There being no objection, Government's Exhibit No. 34 is admitted.

[Government's Exhibit No. 34 was received in evidence.]

BY MR. WEINGARTEN:

Q The next event on the chart is the "sentencing continued"; is that right?

A Yes, sir.

Q May 11, 1981. That is when originally the Romanos were scheduled to be sentenced.

A That is correct.

Q Did you call Mr. Borders that morning?

A It is conceivable. If you have such a message, I have not seen same.

Q I hand you, sir, what has been marked Government's Exhibit 35.

A Thank you.

MS. WILLIAMS: Excuse me, Mr. Weingarten. I have not seen these exhibits.

[Documents handed to Ms. Williams.]

Hastings - cross

BY MR. WEINGARTEN:

Q I hand you what has been marked as Government's Exhibit 35.

A Yes, sir.

Q Can you identify that, sir?

A [No response.]

Q Are those your home telephone tolls?

A Hold on, Mr. Weingarten. I am going to look at each one of them. I am seeing some of this for the first time.

[Pause.]

A Yes, sir. My home telephone tolls.

MR. WEINGARTEN: We move into evidence Government's Exhibit 35, your Honor.

THE COURT: Is there objection?

MS. WILLIAMS: Yes, your Honor.

May we approach the Bench?

THE COURT: Counsel may approach the Bench with the exhibit.

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MS. WILLIAMS: At this time, your Honor, we would ask for a definitive ruling as to the date of

the commencement of this conspiracy. Otherwise, I am going to have to object on the grounds that it is outside the time period of the conspiracy.

MR. WEINGARTEN: The obvious answer he has testified he had no relationship with Borders whatever about the Romano case.

We will prove with these calls that Judge Hastings called Borders virtually every time there was a ruling in the Romano case.

Number two, the telephone tolls that were introduced by Ms. Williams not twenty minutes ago dated back to March 11th, so I don't think the burden is upon us to tell you when the conspiracy started.

The indictment says that.

THE COURT: The basis of the objection to this exhibit?

MS. WILLIAMS: It is that the time reference is outside--well, your Honor, can I have a ruling as to when this conspiracy began?

THE COURT: The Court has previously ruled on that.

MS. WILLIAMS: What is the date? What did the Court rule? I remember requesting such a ruling. I don't remember getting one.

Hastings - cross

THE COURT: No, the Court, at the time of one of the original chambers conferences ruled during the course of this trial--ruled that the conspiracy began some time prior to September 11th?

MR. WEINGARTEN: 10th.

THE COURT: September 10, 1981, and continued through October 9, 1981.

MS. WILLIAMS: Some time prior to or on or about September 10th?

THE COURT: The Court's ruling will speak for itself. It is in the record.

MS. WILLIAMS: All right. Based on the fact that these records go back beyond--before the time the conspiracy has been determined by the Court to have begun--

THE COURT: You are not offering any statements, just the records themselves?

MR. WEINGARTEN: Yes.

THE COURT: Showing a prior relationship?

MR. WEINGARTEN: Yes.

THE COURT: The objection is overruled.

MS. WILLIAMS: All right.

THE COURT: Government's Exhibit 35 is admitted in evidence.

[Sidebar conference concluded and the following proceedings were had in open court:]

THE COURT: The objection has been overruled, ladies and gentlemen, and Government's Exhibit 35 has been received in evidence.

Hastings - cross

[Government's Exhibit No. 35 was received in evidence.]

BY MR. WEINGARTEN:

Q Just so we are back on base, May 11, 1981, the Romano brothers are scheduled to be sentenced; is that correct?

A That is correct.

Q Did you call Bill Borders very early that morning, May 11, 1981?

A It appears that I placed a call to a member, Mr. Weingarten, but you are asking me for independent recollection. For example, on that same day, there is another call to Washington and one to Gainesville and I have no independent recollection of who I called. I am not denying that I placed such a call at that time or any time that these toll records reflect, sir.

Q What does the toll record reflect for 6:27 a.m., from your house?

A You just had us to indicate that a call was placed to a number in Washington, D.C. That is exactly what it reflects.

Q Well, do you typically call Mr. Borders so early in the morning?

A I have called Bill Borders at different hours, but not typically, but typically Mr. Borders has called me at some very ridiculous hours, but if you look at the call right below that, it is at 6:28 in the morning and I was not calling Mr. Borders then evidently and I called someone else and--

Q Would that person be Madeline Petty?

A It could very well have been Madeline Petty's home telephone number, Mr. Weingarten. I don't know Madeline.

Q Did you call because you couldn't find Borders at home and immediatelly called her number?

A If I was given Mr. Borders' number where he could be reached and if his mother or someone else answered the phone and said that was the case and that's Madeline Petty's number, then, yes, I placed both of these calls.

Q Do you have a recollection right now of calling Mr. Borders at 6:27 a.m., on the day the Romanos were first scheduled to be sentenced?

A I have no such recollection. I do not deny that such a call would have been placed and I fail to see the significance of it, but I am sure you have some reason.

Hastings - cross

Q Well, do you recall after not being able to get Mr. Borders at 6:27 in the morning, immediately calling Madeline Petty and trying to get him there.

A I only recall one such occasion where I called and was given another number. Mr. Weingarten, I have told you and I believe Ms. Petty testified here, that we do not know each other. I don't know the lady and I don't know where Mr. Borders is at all times.

I might add that these are not the only times that I have spoken with him either during this period or any other period of time or that he has spoken with me.

Q Well, I guess the general question is, do you have a recollection why you would have sought out Mr. Borders on the morning of May 11, 1981?

A No, and like I told you before, why would I call him to tell him the sentence was continued forfeiture? What difference would it make?

Q Okay. Now, the next event, June 19, 1981.

A Yes.

Q Martino--and we have heard a great deal about that case in this lawsuit; have we not?

A Right.

Q Is it fair to say that, one thing is clear, the Martino decision put your previous Romano forfeiture order in question?

A That is correct.

Q And between June 19, 1981, and July the 8th, 1981, when you ruled, Mr. Miller submitted some sort of memo to you discussing the Martino case.

A Just before going on the Bench on July the 8th.

Q All right. And it is certainly clear that the Miller memo discusses Martino.

A That is correct.

Q And Mr. Deichert submitted a brief to you before you ruled on July the 8th?

A I didn't understand you.

Q Did Mr. Deichert submit papers to you, a brief or a memorandum of law, concerning the Martino case?

A Mr. Deichert submitted to my office, as did Mr. Sonnett submit to my office, briefs with reference to the forfeiture re-consideration that was being held on the same day as the sentencing of the Romanos.

Q All right. And prior to your ruling on

July the 8th, Mr. Deichert made an argument?

A That is correct, as did Mr. Sonnett.

Q And both arguments concerned Martino?

A That is correct.

Q So is it fair to say that prior to your ruling on July the 8th, 1981, you had the Miller memo, the Deichert brief, the Sonnett brief, the Deichert argument and the Sonnett argument?

A No, that is not fair to say. They were in my office, but to say that I was fully familiar with them would be unfair. I did not indicate at any time that I had full familiarity, nor did I have sufficient time to talk with Jeff Miller with reference to it.

Hastings - cross

BY MR. WEINGARTEN:

Q Well you did rule, on July the 8th?

A Certainly I did from the Bench. I affirmed the May 4th forfeiture order that I had entered and indicated that there would be a brief order that would follow and I have indicated to you that contemplated in my head was the fact that the Martino case required at least some additional understanding and it was my home, it was my hope that that money would not have to be remitted to the Romanos.

Q Well, you are not saying that when you ruled on July the 8th, 1981, that you didn't understand the law?

A I am saying that. I am saying that I had not had an opportunity to fully understand Martino and Mr. Weingarten, if you would have anybody believe that judges don't rule and always understand the law then that is a serious misapprehension about the business that we undertake.

Q Why didn't you reserve ruling and say, "I have not decided"? Would there be anything wrong with that?

A This never came to my head. The answer to your question is, no, there wouldn't be anything at

all wrong with my reserving ruling, and at the time I really thought that I was going to be able to affirm the forfeiture and I was not fully aware of the impact of Martino on that decision. I had not read Martino in spite of what I said on the Bench.

It is just that simple.

Q You indicated to the attorneys that you had read the briefs and had ready the law. Is that not true?

A That is so because Judges and lawyers bluff a lot--

You were bluffing--

A No.

Q -- from the Bench?

A No, no, no, no.

You misunderstand my characterization of the phrase. Very occasionally--let me give you an example of a case that is analogous to this one.

A case came down saying--

Q Judge Hastings, I will ask the questions, please.

When you ruled--

A Mr. Weingarten?

Q Yes, sir.

Hastings - cross

THE WITNESS: Your Honor, could I get a ruling with reference to explaining my answers?

MR. WEINGARTEN: Your Honor, Judge Hastings has an attorney, first of all. If there are objectionable questions we would request that the attorney pose the objection, not the witness.

MS. WILLIAMS: Your Honor, we do not have an objection to the question. We would ask that counsel allow the defendant to answer fully the question posed of him.

THE COURT: This having arisen, Judge Hastings, you are instructed to answer the question asked and only the question asked of you, not to expand beyond the scope of the question asked of you.

If Miss Williams wishes something further from you, there will be opportunity on redirect to obtain it.

THE WITNESS: Thank you very much, Your Honor.

MR. WEINGARTEN: May I have the Martino opinion that has been introduced into evidence?

BY MR. WEINGARTEN:

Q I hand you, sir, what has been marked as Government--excuse me--Defendant Exhibit 41 and has

Hastings - cross

already been admitted into evidence.

A Yes, sir.

Q That is the Martino opinion, is it not?

A That is correct, Mr. --.

Q A whole lot of pages to that, are there not?

A Yes, there are.

Q 52?

A 52.

Q How many concern the forfeiture?

A In this particular instance, without looking at it, I really don't know.

Q Well,please look at it. ARe there not headnotes?

A That is what I am looking at and the headnote-- and I am trying to come to the forfeiture, Mr. Weingarten.

Q Let me suggest that you look at the last three pages of the opinion.

A All right, sir. The headnotes, or the opinion itself?

Q The opinion.

A All right. Pages 8274, 8275, 8276 seem to deal exclusively with the subject of forfeiture.

Hastings - cross

Q So, in this enormous Martino opinion, three pages are devoted to forfeiture? Is that right?

A Three pages appear to be devoted to forfeiture, but I would not at all go into what the dicta may have said in other cases--in other headnotes.

I simply don't--

Q Certainly by now you are familiar with Martino?

A You may be surprised to know that I haven't read it and don't intend to.

Q Even after your October 6 order you didn't read Martino?

A At some point in time my law clerk submitted to me an appropriate memorandum. As to sitting down and reading every word of this opinion? I have never done so and I just indicated to you I do not intend to do so.

Q Well, the forfeiture in Martino is decisive as far as the Romano case is concerned, is it not?

A Most assuredly.

Q And the forfeiture in the Martino opinion is all of three pages, is it not?

A We have just gone over that.

Q And you never read them?

A I didn't tell you that I didn't read forfeiture. I told you that I rely very heavily upon my law clerk and upon the submissions that he rendered to me were critically important to me. And that is the primary reason that I was vitally concerned about the Romano order in the first place, because I did not have in my head all of the particulars of what I consider to be a very complex subject.

Q Do you know of any aspect of that opinion other than the three pages I have pointed out to you that concern the forfeiture?

A No, I do not, Mr. Weingarten.

Q July 8, 1981 sentencing, Judge Hastings affirms forfeiture order. Is that a fair characterization?

A That is correct. That is what transpired on the Bench with the exception of my explanation that we have already given.

Q Did you call Mr. Borders the day before and the day after--

A No--

Q --the July 8th sentencing and forfeiture?

A This is distinctly possible. I have no

independent recollection of having done so.

Q Would you take a look at the toll records that are before you?

A All right.

Q Take a look at the July 7.

A Yes, sir.

Q See if you can find a call to Mr. Borders.

A On July the 7th, I called Miami, Key West, Miami, Washington and Miami, and one of the numbers I clearly am able to distinguish, at 11:56 a.m., as being a number located at Cobbs, Williams and Borders.

Q And as you sit on the witness stand today testifying under oath, do you have a recollection of what that call was about?

A No, I do not. There is also one on July 5th to a number in Washington D.C. and I have no recollection of that one either.

Q Is that to Mr. Borders as well?

A I don't know. I don't know the number just by looking at it.

Q So you are not familiar with that number?

A Not off the top of my head.

Q Are you familiar with the July 7th number?

A Yes, I am.

Q That is Mr. Borders' law office?

A That is correct.

Q You also called him the day after the July 8th order?

A All right.

Q Let me help you with this.

A Is that here?

MR. WEINGARTEN: Next Government exhibit, please.

[Government's Exhibit No. 36 for identification.]

BY MR. WEINGARTEN:

Q I hand you, sir, what has been marked Government's Exhibit No. 36.

A All right.

Q Do you recognize it?

Hastings - cross

A It is a message.

Q It is a message that you left with Cindy Rogers; is it not?

A Mr. Weingarten, I have no independent recollection that I left the message with Cindy Rogers. I don't deny that Cindy Rogers may have received the message. It is a message to Mr. Borders' office from Al Hastings and it reads:

"Saturday morning, Air Florida No. 91 at 10:45 from Key West will be departing at 1:00."

Q Do you remember what that is all about?

A Yes.

Q What is it about?

A I came here to Miami and talked with Mr. Borders and Mr. McCrary on that particular date and socialized with them.

Q So, Mr. Borders came to Miami that weekend?

A Yes, sir, so far as I can remember.

Q The next item on the chart, Romano brothers file notices of appeal in the Fifth Circuit. Essentially what they were doing--

THE COURT: Do you intend to offer

Government's Exhibit 36?

MR. WEINGARTEN: I certainly do. I beg your pardon. We offer the next Government exhibit into evidence.

MS. WILLIAMS: No objection.

THE COURT: Is there objection?

MS. WILLIAMS: No objection.

THE COURT: There being no objection, Government's Exhibit No. 36 is admitted.

[Government's Exhibit No. 36 was received in evidence.]

BY MR. WEINGARTEN:

Q The Romano brothers file notices of appeal in the Fifth Circuit is the next testimony and it is fair to say what that is is the Romanos were appealing both their sentence and forfeiture order that you had issued six days before?

A Yes, but it was premature.

Q There has been some mention of the case called United States vs. Peacock.

A Yes, sir.

Q That was decided at the end of August 1981?

A Yes.

Q Is it fair to say--

A In here somewhere.

Q Is it fair to say if it were on the chart, it would be between 6:00 and 7:00?

A Right.

Q Is it fair to say that what Peacock did is simply repeated the Martino ruling?

A In essence.

Q And said if there is cash that has been generated by the corrupt activity, the Government can't forfeit it?

A Mr. Weingarten, that is my recollection of what Jeffrey may have said to me, but more specifically what Jeffrey said was that the Peacock decision was just like the Romano case and we were, based on that and Martino, going to have to remit, meaning give back to the Romanos certain of their funds.

Q Isn't it fair to say that the whole issue of forfeiture comes down to this: If the Government can trace the money into a restaurant or some tangible item, it can forfeit it?

A That is right.

Q But if it is just cash floating out there, Martino and Peacock is authority that says you

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can't?

A That is correct.

Q So, in the Romanos, you have a restaurant $350,000 and cash $850,000?

A Right.

Q So, is it fair to say when Jeffrey Miller came to you after Peacock and said Peacock is just like Romano, the cash can't remain forfeited, you knew exactly what the situation was?

A First off, he didn't say that cash could not be--remain forfeited, but I can't hesitate at all to say that I was following Jeffrey's advice and I glady did so then and if he were working for me now, I would gladly do so.

Q But what did you understand when he said to you, "We have got to give the money back," and you said, "Okay"? What money was he talking about?

A He didn't say-- You see, Mr. Weingarten, it is very easy for you to say words, you know--

Q Judge Hastings--

A I am thinking about Mark Twain's lightning versus lightning bug. You say what you want to say and if you were to take what Jeffrey said to me, as I understood it the word "money," as I recall it,

were not mentioned. Jeffrey and I were in the corridor of the anteroom to my chambers and when he made the statement to me that we were going to have to give property back to the Romanos, I made the statement to him because of the Hollywood Sun-Tattler that all hell was going to break loose if we did that.

Q You are not suggesting, sir, that you were more concerned about the Hollywood Sun-Tattler than what the law required?

A Well, absolutely not, but what I was saying was that we were going to get heavy criticism and Judges are sensitive to criticism.

Q Judge Hastings, you sat as the trier of fact in the forfeiture hearing?

A Yes, sir.

Q And you heard evidence as to what could or could not be forfeited?

A Yes, sir.

Q And you made a ruling on that on May the 4th?

A That is correct.

Q A restaurant was forfeited, cash was forfeited; is that right?

A I think we have been through that and

that is right.

Q And you affirmed your order July the 8th. Martino comes down, Peacock comes down and Martino and Peacock both deal with cash.

Are you suggesting, sir, that you didn't know that?

A What I am telling you is that I was relying upon Jeffrey. Mr. Weingarten, we were operating in a boiler plate-type situation--a boiler room, if you will, in these courts, and without those law clerks, some of us cannot function.

And I have not to be the world's most brilliant Judge. I am fairly in doubt, but I would not say that I could function without law clerks.

I was relying upon him totally with reference to this matter. And whether it comes off that I was a dodo about not knowing all the particulars or not is irrelevant to me.

The fact is--

Q Judge Hastings--

A The fact is that I was genuinely of the opinion that something had to be returned to the Romanos and I do not deny that cash or property, it was going to be something that had to be returned to them.

Q Did you listen to the lawyers' arguments on July the 8th?

A I did and I was not persuaded by those arguments.

BY MR. WEINGARTEN:

Q Was it not crystal clear that what was in issue on the basis of those arguments was whether or not the $850,000 cash that the Government could not trace to a specific location could be forfeited?

A I am absolutely certain that I had a clear understanding, Mr. Weingarten, that either money or property was going to have to be returned to the Romanos, and I have no problem with that whatsoever.

Q Either money or property?

A Well, if you want me to say "money," I don't mind saying money, because I ultimately did return money to them, and I believe that that is what the law was then and until the en banc decision that would have been the law.

Q What about your understanding as of September the 10th? What was it then?

A September the 10th? Of what year?

Q 1981, right after Peacock was decided.

A When Jeffrey came to me and said return to the Romanos whatever we were returning, that would have been my understanding, Mr. Weingarten.

Q And your understanding wouldn't have been a little more specific? You wouldn't have known at that

time that what he was talking about was cash and what he was talking about was approximately $850,000?

A Whatever it was, I knew that it had to be returned to the Romanos and I don't doubt that he--even if he said "cash," that doesn't bother me. He may have. I just don't have an independent recollection of everything Jeffrey Miller said to me every time he said something. It is just that simple.

Q Can we establish as a fair fact that you knew as of September the 10th that money, approximately $850,000, was going to be returned to the Romanos?

A I knew on October the 6th, when I signed the order, that Jeffrey Miller prepared exactly what was going to be returned to the Romanos and I did not know, sir, until October the 6th just exactly what was going to be returned.

And if Jeffrey had come to me on October the 6th and said, "Let's swim upstream," I would have been of the mind to do so.

Q Jeffrey Miller made the decision?

A Mr. Weingarten, Jeffrey Miller prepared the legal work on which I based my decision. But Jeffrey did--the actual with the calculator, sitting down talking about the amounts. I had no idea.

Q I am not interested in specific numbers.

A Okay.

Q I am interested in whether or not you knew on September the 10th or, let's say, right after Peacock was decided that a substantial amount of cash would be going back to the Romanos?

A Your characterization, Mr. Weingarten, the word "substantial."

Q Knew about the cash that you ordered forfeited two months before.

A Again, your characterization, not my understanding insofar as what my head had in it at that time.

And I have no independent recollection of the conversation between Jeffrey and I in all of its particulars.

Q Judge Hastings, you recall conversations you had with cab drivers on October the 9th?

A On occasion.

Q But you don't remember the conversation you had with Jeff Miller?

A Not at that particular time.

And I can recall some other conversations that I had with Jeffrey Miller and--

Hastings - cross

THE COURT: Judge Hastings, the Court will have to caution you about just answering the question asked of you.

THE WITNESS: Okay, Judge.

BY MR. WEINGARTEN:

Q If we could, I would like to move to the large Government chart.

Do you have a copy of it?

A Yes, sir, I do.

Q It is perfectly clear that you scheduled to speak in Harrisburg on Monday, September the 14th, is that correct?

A Yes, sir.

Q It is also perfectly clear that you were scheduled to leave Thursday, September the 10th, is that right?

A Originally.

Q Were you to arrive in the morning or afternoon? I don't recall. Do you?

A Okay. On September the 10th? I don't recall either.

Q The weekend you had scheduled in Washington was purely social?

A Purely.

Hastings - cross

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A Okay. On September the 10th? I don't recall either.

Q The weekend you had scheduled in Washington was purely social?

A Purely.

Q And you were to leave Thursday and Sunday fly to Harrisburg and Monday fly back home?

A That's correct.

Q Now, because of a trial that you were presiding over, you couldn't leave until the next day?

A That is Felix Vicknair.

Q The trial ends on Friday, the 11th. You rush out of the Courthouse. You drive to Miami Airport and you try to catch a 4:00 o'clock flight.

A On September the 11th.

It was near 4:00 that the flight was scheduled to depart.

Q Of course, the plane was delayed?

A Yes. It had landing gear trouble and was considerably delayed.

Q Now, you telephoned Mr. Borders at 3:27 p.m.

Did you actually speak with him?

A I don't think I did.

Q Do you have a recollection?

A I am telling you now, I don't think I did.

Q There is no message found in Cindy Rogers' note pad indicating that you called and left a message.

A That is not my problem.

Q So, you have no recollection of speaking with him but you recognize that no message was left?

A Mr. Weingarten, a lot of people go in and out of Bill Borders' office and answer the telephone. I think you all took wiretaps, in a space of eight days, of 2,000 telephone calls.

No, sir, I don't recall speaking with him at all. But if I did, I don't see as how it is a problem at all.

Q I'm not suggesting it is a problem, Judge Hastings; just trying to get the facts straight.

A You are asking me something that I have no independent recollection of.

Q Of course, you have a little bit later and the flight is further delayed--

A Yes.

Q --not leaving until 5:00?

A Yes.

Q Now, you were in court, fo course, when evidence was introduced that Mr. Borders was scheduled to leave Washington National Airport at 7:30 p.m. to fly down to Florida?

A That is right.

Q You were scheduled to land at National Airport at 6:00 p.m.?

A That is right.

Q So, you were to get in at the same airport at 6:00 p.m. where Borders was originally scheduled to leave one and a half hours later?

A That is right.

Q You were also in court-- Let me ask you this:

When did your plane arrive?

A My plane ultimately arrived some time in the neighborhood of 8:00 o'clock, I believe is--8:04 is on the chart.

Hastings - cross

BY MR. WEINGARTEN:

Q And you were in court and heard evidence that Mr. Borders in fact changed his flight plans and left an hour and a half later from the same airport that you landed in?

A Right, and went through Atlanta.

Q It is your testimony that you did not see him at the airport?

A Not at all.

Q You had no notion about his travel plans, his original travel plans or his changed travel plans?

A Right. The only thing I knew about that particular day on Borders traveling was he told me previous to that, and that was that he was going to attend a family reunion which I subsequently learned that he did in fact attend.

Q And whether or not Bill Borders changed travel plans is something you know nothing about?

A I know now, based on everything that has happened in this case.

Q It is your testimony that it had nothing whatever to do with the fact that your plane was delayed?

A Not so far as I am concerned.

Hastings - cross

Q Now, the following day, September the 12th, 1981, of course you have been in court and heard a tape of Mr. Borders saying to a person that he believed to be Frank Romano that he could eliminate their jail sentences for $125,000?

A I don't recall exactly what all was said. If that was what was said, I have no problems with it. It was here in the courtroom.

Q Is that a fair characterization?

A If you say so.

Q Well, do you think it is not a fair characterization?

A Mr. Weingarten, I am not at all saying that whatever the tape said was not said, sir.

Q Let me say it this way: Is not the gist of what Mr. Borders said to the man he thought was Romano was that he could eliminate their jail sentence for $125,000. As a show of proof, A, he'd produce you at any restaurant they wanted, and B, a substantial portion of property would be returned to them?

A I believe that is the gist of the conversation.

Q Of course, you had no idea that that was going on?

A No, I didn't.

Q Saturday, September 12th you were socializing with Mr. McCrary, Mr. McCrary's former law secretary?

A And his daughter.

Q And his daughter.

A And ultimately at some point during the day, two ladies, one that is a naturalized citizen now and another one who is not, both being from Trinidad, originally.

Q They are sisters?

A That is correct.

Q Did you call one and say, "Why don't you come over"?

A I am not really sure as to how it occurred, but I do know this much: That both of them wound up at that place some point in time either together or individually. My recollection was that I had spoke with first with Pearl and she came, and Margaret came subsequently.

But I believe that there is a possibility that they came together. I just am not certain. But they were there.

Q And truly, they didn't know by magic that

you were going to be there. Did you call them in advance and advise them that you had specific travel plans and invite them?

A Most assuredly, at some point in time, I did invite them to the Sheraton.

Q Okay. Now, there has been evidence that you have heard that Borders had a family reunion in the middle of Florida--or I shouldn't say middle of Florida--on that date, on September the 12th. Is that right?

A That is my understanding. I did not see him there. He had indicated to me before going that he was going to a family reunion and his cousin has testified here that he was at a family reunion.

Q For a very brief period of time?

A Albeit brief.

Q And then he went right back to Washington D.C.?

A That is what apparently has been the evidence in this case.

Q And you have seen evidence that he arrived at the Baltimore airport at about nine p.m.

A That is correct.

Q What were your dinner plans on September the 12th?

A Mine?

Q Yes.

A So far as I know the persons that were inthe room were all going to go to dinner together at some point in time. We were drinking and carrying on and at some point in time we got hungry and said we were going to go and eat.

Q You had no specific dinner plans?

A Not per se, because we just downstairs there at the Sheraton. I recall no specific dinner plans.

Q Did you make a reservation?

A I am not certain, Mr. Weingarten, whether we did or not.

Q And Borders arrived at the Baltimore airport, the plane landed at the Baltimore airport at nine o'clock. I dont know if this helps or not--

A I don't know what you mean by if it helps or not.

Q On this next question.

A Yes?

Q About what is your best estimate as to when Mr. Borders arrived at your hotel room?

A My best estimate, based on my knowledge

of Baltimore and Washington and approximately where the Sheraton is, it would have been after ten.

Q And you still hadn't had dinner?

A No, not dinner, but there had been food and drink in the room.

Q And you weren't waiting for Mr. Borders?

A Oh, absolutely not.

Q Did Mr. Borders know Margaret?

A So far as I know the only time that Mr. Borders would have known Margaret would have been when he got there to the Sheraton Hotel.

Q To your knowledge he had never met her before?

A If he had, I knew nothing of it.

Q Was there a demonstration before you that the two knew each other?

A No.

Q After dinner did Mr. Borders and Margaret leave together?

A Mr. Weingarten, I don't have an independent recollection as to where everybody went. I know where I went.

Q And where did you go?

A I went to my room.

Q And you don't know what happened to Margaret and Mr. Borders?

MS. WILLIAMS: Your Honor, I object. The question has been asked and answered three times--two times, at least, already.

THE COURT: I believe the question has been answered.

MR. WEINGARTEN: I'd like a clarification. I think this is cross examination, Your Honor.

THE COURT: The objection is overruled if there is one.

THE WITNESS: Would you repeat your question?

BY MR. WEINGARTEN:

Q Do you know, do you know if Mr. Borders and Margaret left together?

A It would be hard for me to say that I know that to be the case. I mean, we were having big fun. But I wouldn't doubt at all, boys being boys, that Mr. Borders and Margaret hooked up in some kind of way. I have no problems with that.

Q Now, it has been your testimony that some time that evening or some time the following day Mr. Borders mentioned the Fountainbleau?

A That evening and the following day, Mr. Weingarten.

Q And what did he say?

A I don't recall all of the specifics, save the fact that he indicated that he would be here that following Wednesday and that he would get together and that is not an uncommon occurrence.

It has happened on numerous occasions.

Q All right. Was anyone present when he said that?

A I am not certain that that is true. I don't know.

Q Was anyone present the next day, other, of course, than you two?

A I think Mr. McCrary may have heard about that Mr. Borders was coming to Florida. I am not absolutely certain, but I believe he said he may have heard that.

Q Well, did you hear him testify to that effect at the trial?

A I heard him say he may have known that Borders was coming to Florida. I didn't hear him say that Borders told him that.

Q Did Mr. McCrary testify to the conversation that Mr. Borders had with you allegedly about appearing at the Pontainebleau?

A Mr. Weingarten, you are asking me to recall everything that Mr. McCrary said on the witness stand.

Q If your best recollection is you don't know, that is an answer, too.

A All I can remember is that Mr. McCrary

indicated that he may have heard that Mr. Borders was coming to Florida. I believe he said that he did not hear him say anything to me at all about coming to the Fontainebleau Hotel.

Q Thank you, sir.

Now, about the Fontainebleau.

A Yes.

Q You went to that specific restaurant strictly on Borders' word?

A Yes, and I have gone some other places, unfortunately today, on Borders' word.

Q Did Borders indicate that he was staying at the Fontainebleau?

A No, sir, he did not.

Q Just for dinner?

A He didn't even say "dinner." He said that he would meet me at the dinner hour and he gave us a specific that he would be there at or about 8:00 and I don't know whether it was he or I. I knew that I was going to eat, but I know for a fact that I told him that I would eat and he did say something about the main dining room.

Q All right. Did you tell Essie Thompson about Borders?

A Not until well after this incident.

Q Did you mention the name Bill Borders to Essie Thompson on September the 16th?

A I don't believe that I did, not at all.

Q And you did make reservations for two?

A For Essie Thompson and myself, yes, sir.

Q And you never had Mr. Borders paged; did you?

A No, I did not page Mr. Borders.

Q And you never made a telephone call while you were at the Fontainebleau?

A I did not make any telephone call at all either for Mr. Borders or anyone else. I did speak with the maitre d' upon entering and exiting and I did speak with the lounge attendant in the Poodle Lounge and Steak House and I indicated to each of them, one, that I expected Mr. Borders initially and, two, when I was existing and I spoke with the maitre d', I indicated to him that if a Mr. Borders came there and asked for me, to please indicate to him that I had been there.

Q And you used the name Mr. Borders?

A I am pretty sure at the hotel I would have said his full name, but I would have said Mr. also.

Hastings - cross

Q But you never said to Essie Thompson, the name of the expected guest?

A No, I did not.

Q And it is your testimony that you walked around the Poodle Lounge to see if you could find Mr. Borders.

A I walked into the Poodle Lounge initially, but I wasn't looking for Bill Borders when I walked into the Poodle Lounge, I wasn't right at that particular point in time because of the changes that had occurred there, how to get into the main dining galleries, but subsequent to that particular period of time, I went into the Poodle Lounge and I spoke with one of the gentleman that was working at the bar.

Q Did you write anything down?

A No, I didn't write anything down.

Q Did he?

A Did he write anything down?

Q Yes, sir.

A No, not that I recall.

Q And the second time you walked into the Poodle Lounge, was it to see if you could see Mr. Borders; is that right?

A Yes, sir.

Q It wasn't to be seen by representatives of the Romanos; was it?

A Mr. Weingarten, no, sir, and even the fair characterization that you gave didn't indicate that anybody had to be seen by representatives of the Romanos and I know both of the Romanos very well and I can tell you if I had been involved in such a scheme, I would have been seriously disturbed at not seeing them in that particular setting.

Q Well, isn't that why you walked around, Judge Hastings?

A I walked around for the express purpose and it wasn't around, I went from the main galleries into the Poodle Lounge, left word, went back into the main dining galleries and completed my meal, left and left word and that is all.

I didn't walk around the whole hotel. I didn't go downstairs to the coffee shop. I didn't go to the Steak House. I didn't go to the La Favorita and I didn't go to the restaurant Under the Trees.

Q Weren't you curious to look around and see if you could find your good friend from Washigton, D.C.?

A Your words "good friend."

Q He is not a good friend of yours?

A Your words.

Q He was not a good friend of yours at that time?

A At that particular time, yes; but now you are putting--

Q I am talking about September the 16th, 1981. Was he a good friend of yours?

A Indeed, I would have considered him to have been an allie of mine.

Q And that hotel is huge; is it not?

A Very.

Q And you weren't so concerned about him or so interested in his appearance that you bothered to look around the entire hotel.

A It really was no great big problem. I was in the main dining room and that's where we had originally said that we would get together at or around dinner time, Mr. Weingarten.

Q You never expected to see Mr. Borders that day; did you?

A That is your characterization. I certainly did expect to see him. But that's not the first time I have been disappointed by him.

Q No big deal. Bill Borders called you up and says, "You be at that dining room." You go there and he doesn't show up and no big deal; is that your testimony?

A No, no, no, I am not saying it was no big deal in the sense like you put it, but it is not uncustomary for Borders and subsequently when I spoke with him and chided him about it, he chuckled.

Q Did you say to Essie Thompson, as you left, that Bill Borders, "That president of the National Bar Association, he stood me up again"; did you ever say anything like that to her?

A No, I did not.

Q Let's talk just a second about the fight that was taking place at the same night as you were at the restaurant.

Are you a fight fan, sir?

A I watch them. I think it is an abominable sport and ought to be stopped.

Q Did you watch the Leonard-Hearns fight that night?

A No, I did not watch the Leonard-Hearns fight that night, sir.

Q Do you know enough about it to know it

Hastings - cross

was a championship, probably the biggest?

A I know a great deal about it. I saw excerpts from it at another point in time and that is the fight, I believe, when Sugar Ray got his eye damaged so severely that he has now announced that he is not going to fight any more.

Q And in addition, came back and knocked out Tommie Hearns in the fourteenth round; is that right?

A I know that to be the facts, but I didn't see the fight.

Q That was a big fight in Las Vegas, Nevada; wasn't it?

A Yes, sir. As a matter of fact, when we got back to Ms. Thompson's apartment complex, somebody somehow had it on in that apartment complex and you could hear excerpts from it at that time.

Q Oh, some sort of closed circuit setup?

A I didn't know what the setup was, but you could hear it. They were shouting and screaming, the people in the room was.

Q Was it any secret that Mr. Borders was going to that fight?

A I don't know that there was a secret about it at all, Mr. Weingarten.

Q Well, you heard Madeline Petty testified that the plans were originally made a month before. She picked up the tickets September 1st.

A I don't doubt all that.

Q You heard Hempy Pride testify when he came to Washington and saw Borders at the hotel they discussed the fight before he went?

A I don't have a recollection that that's what Pride said. But if that is what he said, I wouldn't doubt that at all.

Q And you heard on September 12th the tape that Borders even told Rico, posing as Romano, that he was going to the fight?

A That's right.

Q For a secretive guy, this information got out to a whole lot of people, didn't it?

A Yes. And I think the best person to ask about it would be Mr. Borders.

Q Thank you.

On September the 19th--

A Are we on the 19th now, sir?

Q Yes, sir.

A Yes, sir.

Q It is the day, of course, Mr. Borders

comes down to Florida and receives $25,000, is that correct?

A That's what the testimony has been, Mr. Weingarten.

Q And it is your testimony you had no knowledge of that event?

A I had no knowledge of it.

Q You have also testified about your financial situation.

Are you suggesting that you are indifferent to money?

A No. Money has been indifferent to me.

[Laughter.]

Q Well, what is your salary as a Judge?

A Presently or at that time?

Q Both.

Q Sixty thousand plus at that time. I think our new raise allows that we have seventy-three thousand plus and that was just with this particular session of Congress that the Judges received that modicum of increase.

But, Mr. Weingarten, I also teach school and I do that to maintain a lifestyle for myself and for my family. And then I also from time to time am in

a position whereby I try to do things as I can to make extra money.

If I had bribe money, sir, I wouldn't teach school as hard as I have.

Q You teach law school?

A No, I don't teach law school. I was scheduled to teach law school and because of these events it didn't come off.

Q Aren't you an instructor at Nova?

A Yes, sir. But the law school. Nova is a university, and I am in their criminal justice program and in their human services program.

And I also teach at Florida Memorial College and, for the year that we are talking about and two previous, I have taught at least two or three nights a week and on many a weekend for both of those institutions.

Q Well, and you have told people in fact that you can't live on your Judge's salary?

A I have said that and I still thing that Judges are seriously underpaid, and I haven't told anyone that I couldn't live on my Judge's salary.

I became a Judge because I couldn't live on my lawyer's salary.

(Laughter.]

Q Did you tell people in your House seeking endeavors in the spring of '81 that you were discouraged because only criminals and young people with rich parents could afford down payments?

A If I said that, I don't have an independent recollection of it, but I know this much. I have talked with lots of people about wanting to have a down payment, and I know for a fact in over a ten-year period of time I have not been able to muster sufficient money to pay down on a house.

But that's because of the vicissitudes of the market, not so much whether or not I make money. I would hope somebody making sixty thousand or seventy thousand dollars at some point in his life can own a home, and I hope to do that.

Q And that hasn't happened to you yet, has it?

A You mean the ownership of a home?

Q Yes.

A I have owned two, Mr. Weingarten.

Q I am talking about recently.

A Not in the last ten years, no, sir.

Q In the fall of '81, did you have a

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marriage that had to be put on hold because of your outstanding debts?

A Mr. Weingarten, you know--

MS. WILLIAMS: Your Honor, I want to object.

May we approach the Bench?

MR. WEINGARTEN: Certainly.

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MS. WILLIAMS: My objection is simple. I think the Judge's marriage plans are irrelevant.

MR. WEINGARTEN: Ms. Williams testified at the Borders' trial that her marriage plans with Judge Hastings were put on hold during the time of the indictment because of his outstanding debts.

Clearly Judge Hastings has put in his financial situation into issue.

Was it because of financial--

MS. WILLIAMS: First of all, that's not what I testified to.

Now, I said that he--

MR. WEINGARTEN: I was extraordinarily careful taking your testimony out of that record.

MS. WILLIAMS: Fine. What I said was, he wanted to pay off one debt that he had, and you didn't let me finish, which would have been paid off within the next couple of months.

There's nothing in connection with our relationship, your Honor, had anything to do with this case, and I don't want it flaunted in this courtroom.

THE COURT: As the Court recalls the testimony by you at the Borders' trial--

MS. WILLIAMS: Yes.

Hastings - cross

THE COURT: --in which you said the marriage was--you had intended to get married to Judge Hastings but it was delayed because of--

MR. WEINGARTEN: Outstanding financial obligations. I have the transcript.

MS. WILLIAMS: Get it then because what I said--

THE COURT: Do you have the transcript here?

MS. WILLIAMS: What I said was this dilemma--

MR. WEINGARTEN: I think the question is totally irrelevant. He can deny it or he can answer it consistent with her testimony.

THE COURT: Well, it certainly is relevant as to the need for money.

MR. WEINGARTEN: I am not interested in developing the fact it is you, and if you want to instruct him not to say it, that's fine.

THE COURT: Do you want a recess?

MS. WILLIAMS: Yes, I think so.

THE COURT: To tell him? Just tell him not to mention your name.

MR. WEINGARTEN: Fine. I would like a

Hastings - cross

five-minute recess.

MS. WILLIAMS: And I would like to see the transcript again.

THE COURT: All right, and if there's any problem in the transcript, let me know.

MR.WEINGARTEN: We'll come up.

(Sidebar conference between the Court and counsel in open court)

THE COURT: Ladies and gentlemen, it is necessary for counsel to review some papers and we will recess for five minutes. Will that be sufficient?

MR. WEINGARTEN: Yes.

THE COURT: Five minutes, which usually becomes ten, but we will try to make it five at this time.

(Recess taken from 12:10 p.m. until 12:17 p.m. after which the following proceedings were had:)

THE COURT: We may proceed.

MR. WEINGARTEN: Thank you, Your Honor. I would ask that the last question be read back, please.

THE WITNESS: It was a different court

reporter.

MR. WEINGARTEN: We will hold that off until after lunch.

BY MR. WEINGARTEN:

Q Let's move to October, if we may.

A Yes, sir.

Q Is it fair to say that you were in court when evidence was introduced that on Friday, October the 12th, Mr. Rico, called Mr. Borders at his law office and said, "Where's the order?"

Or words to that effect. Is that a fair statement?

A I'm not trying to quibble with you, Mr. Weingarten, but you said October the 12th. I believe you mean September the 12th.

Q Excuse me, and just to be more precise, is it fair to say that the chart reflects that at 3:11 p.m. there's a telephone call from the undercover agent to Borders patched through to a third location in Washington wherein the undercover agent says, "What's happened?"

And Borders says, among other things, "I will check into it?"

A Yes.

Q Now the next entry on the chart is a call from Borders' office to your chambers.

A That is correct.

Q And you were not there then, is that right?

A So far as I can determine, I was not.

Q All right. When the tape was played, you didn't appear on the tape?

A No, sir, it was from an unidentified female answered by an unidentified male, and the message --the question wasto speak with me and the response by the unidentified male was that I was not there.

Q Well, the unidentified male, do you know who that was?

A Yes, I do now.

Q Who was it?

A Alan Ehrlich.

Q And the unidentified female was identified as Cindy Rogers?

A Cindy Rogers.

Q So is it fair to say that Cindy Rogers called your chambers, got Ehrlich, tried to get you and you weren't there?

A Oh, of course.

Hastings - cross

Q Now, what business did Borders have with you on Friday, October the 2nd?

A I can't think of any business. As I have indicated that Mr. Borders and I--we are not buying real estate or foreign property or anything together but if you ask me to give you an opinion as to what he may have been calling about, I think I can.

Q Well, let me see if we can't clarify it a bit further.

Did you speak to him later that evening?

A On October the 2nd?

Q Yes.

A I may very well have done so.

Q Do you have a recollection of that?

A No, sir, I do not.

Q Did you speak with him Saturday, October the 3rd?

A No, sir, I don't recall speaking with him Saturday, October 3rd. I think I was at the Florida chapter of the National Bar Association.

Q You were at Key Biscayne at the Sonesta?

A Yes, sir.

Q And you stayed there that night?

A I am pretty sure I did.

Q Did you stay two nights?

A You know, I don't really remember whether I stayed Friday and Saturday night or just Saturday night, but I know I spent a night there and subsequent thereto I came home.

Q All right.

A And I was down here for Wilkie Ferguson's affair as well.

Q Where was that affair?

A That affair was held at the Caleb Center here in Miami.

Q All right, the next entry on the chart is Sunday morning, October the 4th?

A Yes, sir.

Q 9:30 a.m., telephone call from Mr. Rico to Mr. Borders.

A Right.

Q Mr. Borders says, among other things, I don't have that answer for you. Is that fair?

A That's what I believe Mr. Borders said to Mr. Rico.

Q And you heard that on the tape?

A Yes, sir.

Q Now, your mother testified, I believe,

that some time that morning Mr. Borders called you at home?

A No. My mother testified that some time that afternoon Mr. Borders called my home.

Q All right, and you weren't there?

A No.

Q So you don't know exactly what he was calling about?

A I only know what my mother told me and what she testified to.

Q And the message was?

A Something to do with Hemphill but nothing specific, that she related to me, and the only thing I could think of was what I have already testified about.

Q On receipt of that message, did you call Borders back?

A Mr. Weingarten, I have no independent recollection of having called him on October the 4th.

Q And your toll records, which I'm sure you have looked through, don't reflect any call to that effect?

A I didn't look for October. Do you want me to?

Hastings - cross

Q In the course of your preparation for trial, you didn't check and see if you called him back on October the 4th?

A Let me put it this way, Mr. Weingarten, I didn't look at the toll records until day before yesterday in their entirety and if what you call that is inadequate preparation, perhaps it might be called that.

Q I wouldn't say such a thing in a million years.

Why don't you look and see if on October the 4th you called Mr. Borders.

A All right. On these toll records, the only call on October the 4th was to Orlando, Florida, from my home.

Q You go to court the next day, October the 5th, Monday, 1981?

A Yes, sir.

Q And you are in the middle of the Santorelli trial?

A That is correct.

Q And what was the natu-re of the Santorelli case?

A The Santorelli case, if I am not mistaken, had to do with drug importation.

Hastings - cross

Q Okay. And the trial was going on on that Monday?

A Oh, yes.

Q And you were follow ng the events closely because it could have affected your travel through the rest of the week?

A If you wish to say that I was following the events of when the trial would terminate and asking the lawyers where they stood with witnesses and things of that nature, yes, I was following it closely.

Q You walked into your office that Monday morning and you said to Mr. Miller, "Do the order. I want the order today."

A Words to that effect.

Q Why that day, Judge Hastings? Why not one month before, one week before, one day before? Why October 5th, same day as the 5:12 p.m. call to Mr. Borders?

A As best I can rell you, and I believe if you start back with even the charactrtization that I gave to Mr. Simmons and Mr. Harrington on the night of the 9th, my only concern was the fact that I was going to be out of the office for the greater portion of the month of October. One month before would have been not

the same pressing urgency with reference to my leaving. One week before would perhaps not have been the same. On that particular day, you know like any other day when I have said to either law clerk or someone else to do something, I said it on that day, but I told you what jogged my memory on that particular day and I have already testified about it.

That the absolute truth.

Q Mr. Miller was talking about leaving as early as September the 1?

A Originally, and then Judge Paine and I had at least one conversation and I begged off because I needed Jeff to stay there and complete his work and I have said that rather repeatedly It was real important to me that he complete his work because I had had the experience with the law clerk leaving, work unattended and it causing serious, serious problems.

Q And so of that work was the Romano order?

A Some of the word that Jeffrey had to do was the Romano order.

Q Now, Mr. Miller testified, I ask you if this is accurate, that upon receive of your instruction

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Hastings - cross

he went home, finished the order, came back the next day and it was typed?

A That's right. He said that he had left the file at home. I did not know that, Mr. Weingarten, at all.

Hastings - cross

Q The opinion itself, the October 6th opinion reflects a dissatisfaction on your part about having to give moneys back to the Romanos?

A Yes.

Q That is what Miller wrote?

A Miller wrote that and with my concurrence.

Q And you testified that you anticipated that one day the law would come your way on that point and that cash moneys could be forfeited?

A I believe that is your characterization, but that is the essence of what I may have testified.

Q Is that fair?

A Yes, sir.

Q Why didn't you simply instruct Miller to prepare the order and then hold it to see if the law eventually would come your way? What was the urgency to issuing the order on October the 6th?

A Because Jeffrey was going to be leaving and I was going to be away for the month of October.

Q To issue an order, all you have to do is sign it.

What did you need Miller to do that for?

A I am not following what you are asking me.

Hastings - cross

Q You instructed Miller to prepare the order; is that correct?

A Yes.

Q Why was it essential for you to sign it and issue it October the 6th? Why didn't you simply keep it and see if the law would eventually come your way?

A I would have been away more than likely had he prepared it, but let me say this: Had he prepared it and left it--

Q Yes?

A --it would have been satisfactory with me.

Q Why didn't that happen?

A Because it was prepared, Mr. Weingarten, and it was typed. And I have a habit of whatever is prepared and done and submitted to me, going ahead and getting it out. There is nothing wrong with that.

Q You didn't like the law you had to put in effect and you anticipated that the law might be changed; is that right?

A There was some rumbling to the effect that there would be an en banc hearing, but there was no--

Q In fact, it happened?

A Yes, in fact, it did happen, but I didn't have any advanced warnings as to what all of the Judges in the Eleventh Circuit would rule and they may very well have undertaken to uphold Martino and Peacock as opposed to going against it. That happens all the time.

Q Well, you--

A VOICE: Judge, I am going to speak. I be hit in the head by a gun last night.

THE COURT: The Marshal will--

A VOICE: I be hit last night with a gun. But I am a writer, too, and that is what happened. I got upset. I wrote. You have to help the Lord. It is like that.

THE COURT: Ladies and gentlemen, I will simply have to ask you to disregard that scene which has no relationship to this question before you, at this time.

MR. WEINGARTEN: Perhaps we can get back on track this way.

BY MR. WEINGARTEN:

Q Monday morning, you came to work and told Miller to give the order, "I want the order," words

to that effect?

A Words to that effect.

Q The order was prepared the next day, typed. You signed it and issued it the next day; is that correct?

A At some time during the course of the evening of the next day, yes.

Q Is it fair to say that an option that was available to you was to have Miller prepare the order, submit it to you and you hold on to the order and wait and see how the Eleventh Circuit would ultimately rule on forfeiture?

A That is an option, Mr. Weingarten, but I have never held an order, once prepared by a law clerk, that I agreed with, and therefore I would not have exercised that option.

Q When did Mr. Miller's final order come to you for the first time?

A I am not certain. On the day of the 6th, at some point in time--and I believe it would have been some time after 4:00 p.m.--but I have no independent recollection as to the exact time of the day.

Q What did you do to review it?

A Read it.

Q And you were satisfied from one reading that this is what you wanted, signed it and issued it?

A I am pretty sure that is the case.

Q Did you read any other cases?

A No.

Q Isn't it a fact that you knew, perhaps not to the dollars and cents, but knew precisely what the content of that order would be before it arrived at your desk at 4:00 o'clock on October the 6th?

A Mr. Weingarten, I had never seen Jeffrey's work and if Jeffrey had presented me an order that would have said that Martino and Peacock were not the law in the Circuit and it had been based on some other precedent, I would have signed it.

He submitted to me an order that said: "Judge, I feel like this might change."

And that only happens once in a while. You see you must understand I had not been a Judge a very, very long time and this is the very first time that such a development occurred wherein I made a ruling on the Bench and something subsequent thereto occurred that gave rise to stare decisis causing an impact on the decision made on the Bench.

Q Judge Hastings, is that accurate? Martino occurred before--

A You understand what--

Q --the forfeiture--

A You understand what I am saying? I thought you were asking me at one time about an en banc and you are going back and forth and talking about Peacock.

What I am telling you is the events as they were developing. This is a very first for me as a Judge. I had only been a Judge for a limited period of time.

Q How long had Miller been a law clerk?

A One year plus some days.

Q You had been a Judge longer than Miller had been a law clerk?

A Of course I had.

Q You are not suggesting that anything that Miller put before you on October the 6th would have been signed by you without independent consideration?

A No. I am saying with independent consideration, based on how I felt about the forfeiture aspect of the RICO statute, that if Jeffrey had said

Hastings - cross

that, "We feel that there may be some development in the Circuit at a time subsequent that would substantiate not giving the money back to the Romanos," I would have properly done so for that was my feeling with reference to the forfeiture all along, Mr. Weingarten, and I think I have said that repeatedly.

Q When you received Miller's opinion on October the 6th, is it your testimony that you were surprised by the result?

A No.

Q You knew exactly the way it was going to come out?

A No, I did not. I didn't know even the substance, the words, where the T's were going to be crossed or the I's dotted. And I certainly didn't know how much money. He could have come to me and told me, "Judge, we are going to have to give them one dollar, 100, 1,000 or one million," if that was the law based on how the law in the Circuit was at that particular point in time, I would have signed that order saying, "Give the Romanos $100 cash or $100,000 cash."

Q Judge Hastings, did the issue of forfeiture ever really change from May 4th until October 6th? Is it not true--

A No, it didn't change.

Q Is it not true that the issue in question was from day one whether or not the $850,000 in cash generated from the corrupt activity of the Romanos would or would not have to be returned?

A I heard you say a lot and I don't know what you said and I think the answer to your question is you are correct.

Q And you were the Judge who heard the trial concerning the forfeiture? Did you forget all that?

A No.

Hastings - cross

Q So, it was in your head. It was in your mind. And you knew precisely what was going to occur when Miller brought you his draft on October the 6th?

A No.

Q Judge Hastings, if after your forfeiture order on October the 6th, the Romanos withdrew their appeal and filed a motion to mitigate their sentence, is it not true that you would have absolute power at that time to mitigate their sentence?

A If they had withdrawn their appeal, the answer is "yes."

Q Thank you.

MR. WEINGARTEN: Your Honor, may we approach the Bench for one second?

THE COURT: Counsel may approach the Bench.

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MR. WEINGARTEN: I am about to enter in to a totally new area about Hemphill Pride and I know we are ten minutes before, but I would respectfully request that we break for lunch now so that there will be continuity.

We can take the ten minutes back if possible. If it is not possible, I will continue.

THE COURT: No, we will recess until ten minutes of 2:00 then.

MR. WEINGARTEN: That will be fine.

MS. WILLIAMS: That is fine.

THE COURT: Mr. Weingarten, how much longer do you anticipate you have?

MR. WEINGARTEN: Two hours.

THE COURT: Do you think we will have rebuttal tomorrow?

MR. WEINGARTEN: Yes. It has got to be tomorrow. I figure we will have the charge conference maybe in the afternoon.

MS. WILLIAMS: This afternoon?

MR. WEINGARTEN: No, tomorrow.

THE COURT: Okay.

[Sidebar conference concluded and the following proceedings were had in open court:]

THE COURT: Ladies and gentlemen, we will take our luncheon recess at this time until an hour and fifteen minutes. That will be until ten minutes of 2:00 by the courtroom clock.

And may I just remind you not to discuss the case during this recess. I assume your lunch has arrived or it will very shortly.

Court will be in recess until ten minutes to 2:00 this afternoon.

[At 12:40 p.m., a luncheon recess was taken until 1:50 p.m. of the same day.]

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AFTERNOON SESSION

[The trial reconvened at 1:50 p.m.]

[Jury present.]

THE COURT: Good afternoon, ladies and gentlemen. This gentleman, the Marshals shall remove this gentleman from the courtroom.

A VOICE: I want to approach the Bench, your Honor.

THE COURT: Sorry, sir. We can have no disruption in the rear of the court. I am sorry, ladies and gentlemen. I will simply have to ask you to disregard these incidents as they occur. I do wish to tell you ladies and gentlemen it appears now that the cross examination will continue for most of the afternoon and which means the Government will not be putting on whatever rebuttal evidence they may have until tomorrow morning which would indicate this case will not be in your hands probably until Wednesday of this week.

I will try to keep you posted and I may be wrong in that estimate, but that is the best reading I have now.

Mr. Weingarten.

MR. WEINGARTEN: Thank you, your Honor.

Hastings - cross

Thereupon--

ALCEE L. HASTINGS

resumed and, was examined and testified further on his oath as follows:

CROSS EXAMINATION [Continued]

BY MR. WEINGARTEN:

Q Sir, I would like to begin this afternoon with a few questions about Mr. Pride and it is fair to say that you have a longstanding, very close relationship with Mr. Pride?

A Yes, sir.

Q And it is also fair to say that over the last twenty years you have been a constant friend and have done a great deal for Mr. Pride?

A And I would think that Mr. Pride has done a great deal for me, too, Mr. Weingarten. Will you pardon me?

Q Would you like to have water?

A No. I am okay. It is just talking a lot does this.

Q And, in fact, there has been a great deal of evidence in this trial about the things that you have done for him like giving his mother money when he was in prison and assisting him with advice during

his legal difficulties.

What I would like to do is zero in specifically to his situation in South Carolina and see what role you played.

Is it fair to say Mr. Pride was indicted in South Carolina in a Federal Courthouse on October the 11th, 1977?

A I don't remember the date of Hemphill's indictment, Mr. Weingarten, but I would think that is fair to say. If you know the date, then I believe that is the date.

Q And the subject matter of the indictment was a HUD project that he was involved in?

A That is correct and I was the attorney that closed the loan.

Q You had better clarify that.

A When you have low and moderate income housing programs, you have an attorney that does some of the paper work. I didn't do all of the paper work. A lot of it was done by the mortgage broker, Mr. Leo Shea [phonetic], but on the day of the closing, the actual day that you go to make your ultimate purchase, I was in Columbia on that particular day and sat in as the closing attorney for the final papers.

Q All right, sir. This is when you were a private attorney in Florida?

A Yes, sir.

Q You served as the attorney of record on the HUD project up in South Carolina?

A For part of the undertaking, yes.

Q Now, is it fair to say Mr. Pride's trial was in December of 1977, about two months after his indictment?

A Again, you are asking me to have an independent recollection. I don't independently recall when his trial was he had. I know that I was there at some point during the course of his trial. The specific month and date and time, I would have difficulty with, but I think that is fair to say.

Q How did it come about that you were up there at the trial?

A I was scheduled for a testimonial and Hemphill called and asked if I would come and be a witness and, you know, I never really did quite know a witness about what. I never even, on that day, had an opportunity to talk with Mr. John Shorter, who was his attorney. But I stayed for all of that particular day and I even talked with the Judge that was presiding at

that time and at some point it was determined that I was not going to be a witness and I returned to Florida, arriving while the affair for me was in progress.

Q Well, you didn't go up there for Hemphill Pride; did you? You went there because you were subpoenaed by the Government to testify in the Government's case?

A Mr. Weingarten, I don't think that is true. I may have been subpoenaed by the Government, but when I left, I thought I was going to testify for Hemphill.

Q Do you dispute that you were subpoenaed by the Government to testify in the--

A I don't--

Q --Government's case?

A --dispute that. I am telling you what is in my head. I had talked with Hemphill and my testimony was going to be favorable to him.

Q Do you recall a fellow named Joel Collins?

A No, I don't.

Q The prosecutor--

A No, sir. I do not know the name of that prosecutor. The prosecutor that indicted Hemphill is Mr. Thomas Leighton [phonetic] and I know him because I

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spoke to him, personally, about it.

Q If you were subpoenaed to Hemphill Pride's trial to testify as a Government witness, you have no recollection of that?

A I really don't. I really have no recollection of that, but I would have denied that that was the case. But I know my testimony would have been favorable to Mr. Pride.

Q And you gave no testimony?

A I gave no testimony.

Q Do you recall that almost immediately after his conviction, there was a petition filed by the Attorney General of South Carolina to temporarily suspend Hemphill Pride's licenses?

A No, sir. I don't have an independent recollection of that. In reviewing the events I am aware and I believe that is correct.

Q Are you aware as well that one month later an Answer was filed by Mr. Pride denying guilt even after his guilty verdict and moving to petition the Court to lift the temporary suspension?

A No. You are asking me to have recall about things that I don't have total recall regarding each of the events. I didn't speak with Hemphill every

day and I just would have no way of knowing all of those things. I have not even seen that particular document to remember that I saw it. But I don't deny that it happened.

Q Do you have a recollection of being involved in these events at all?

A If involved in the events of filing papers--

Q Assisting in the papers, filing the papers.

A Nothing more than advising Hemphill if he would give me a call and the few attorneys of his, John Harper and folk like that, that would give me a call and other friends that would ask me what I thought about certain things.

But insofar as the papers themselves, no, I don't recall having my signature involved in filing anything for it.

Q What about your input?

A I would think so.

Q What do you specifically recall?

A Mr. Weingarten, I used to be a Circuit Court Judge in 1977, and I don't remember specifically recalling everything I did. I really don't recall.

Hastings - cross

Q Of course, the Hemphill Pride issue is central to this case; is it not?

A Yes, but my life is not shrouded around either Hemphill Pride or the Romano order or anything you think I need to know.

Q Let me ask you this: Hemphill went to prison in March of 1981; did he not, to Maxwell?

A You see, all I know is that Hemphill went to prison based on what you are saying. You know he went in March of 1980. I have no independent recollection of that. I do not dispute that that was when he went to prison.

Q Do you recall that soon after he went to prison, there was a hearing in South Carolina before the Bar Grievance Committee and that Hemphill Pride was represented by a lawyer named David Robinson from Columbia, South Carolina, and the witnesses were brought in on behalf of Hemphill Pride to testify as to his character?

A The answer to your question is I have no such recall and this is the second time that I have heard David Robinson's name and I did not know that there was going to be such a hearing. I do recall Hemphill saying to me that such a hearing was going to be scheduled. When it occurred, I did not know.

Q Were you asked to testify at that hearing?

A I don't know whether I was or not.

Q You have no recollection?

A No, sir, I do not.

Q Are you aware of the fact that every witness who testified for Mr. Pride was from South Carolina?

A No, sir, I am not aware because I am not aware because I am not aware of when the hearing was held or who was there.

Q Do you know the result of the hearing?

A I know now. I did not know then.

Q What was the result of that hearing?

A So far as I can determine, at some point in time there was a three-to-two South Carolina Supreme Court decision in which Mr. Pride's licenses were indefinitely suspended.

Q That was before the Supreme Court. I am asking you about the procedure, the hearing.

A Well, then, youare asking me something about which I don't have recall about, and I think I have tried to be as fair in my response to you as I possibly can.

Q Just so it's perfectly clear, there was a hearing in May of 1980 before the South Carolina grievance committee concerning Mr. Pride. You have no knowledge of that?

A Mr. Weingarten--

MS. WILLIAMS: Your Honor, I believe the question has been asked and answered twice already.

THE COURT: The objection is overruled.

Do you want the question read back?

JUDGE HASTINGS: No, sir, I don't need the question read back, Judge.

I have done countless things with and for Hemphill, and I don't have independent recollections of them all. It is distinctly possible that at the time that that was going on that I knew about it that as I sit here today and you inquire of me regarding it, I do not recall and I am not trying to be evasive.

I do not recall and I am not trying to be evasive. I simply don't recall, but I did so many things with and for him and he did so many things with and for me until it would be impossible for me to do, as you say, zero in and then zero out based on what you want me to say.

Q I only want you to testify as to the

facts, Judge. Do you know a woman named Sheila McMillan?

A Give me more specifics.

MS. WILLIAMS: May I approach the Bench? I have an objection, Judge.

THE COURT: Counsel may approach the Bench.

(Sidebar conference between the Court and counsel as follows:)

THE COURT: What's this about?

MR. WEINGARTEN: These are people who testified for Hemphill Pride at his hearing. He had a big hearing in South Carolina as to whether or not the Attorney General--the Attorney General could have him disbarred.

MS. WILLIAMS: Your Honor, he has already testified that he has no independent knowledge of that hearing and I would object very strenuously.

MR. WEINGARTEN: I want to jog his memory.

MS. WILLIAMS: I would object on the grounds of relevancy. Whereis this heading? How is that related at all to these proceedings?

MR. WEINGARTEN: The answer to that is clear. The whole point is whether Judge Hastings was

helping Hemphill Pride as to--

MS. WILLIAMS: He has already said that.

MR. WEINGARTEN: I think I am totally entitled to develop it as best I can.

MS. WILLIAMS: Well, Your Honor, I press my objection on the grounds of relevance.

THE COURT: The objection is overruled. This is cross examination.

There's a very strange woman in the very odd-looking pajama suit walking in and out.

MR. WEINGARTEN: We have a very raucous crowd today, Your Honor.

THE COURT: We will do our best. I don't want to have to clear the courtroom or we will have more problems.

What's your position on it, Miss Williams?

MS. WILLIAMS: On the lady?

THE COURT: The crowd is constantly stirring up and applauding and laughing and this type of thing.

MS. WILLIAMS: Perhaps Your Honor should again caution the audience against making unnecessary noises. I think emptying the courtroom would probably present more of a problem than we have.

MR. WEINGARTEN: I think perhaps at the next recess when the jury is out a really strong warning.

THE COURT: All right. I will try again. I don't want to have to clear the courtroom. If necessary tomorrow we will move back to the smaller courtroom, but I am afraid that will cause more problems.

MR. WEINGARTEN: That's not going to help.

THE COURT: All right. We'll do the best we can.

(Sidebar conference concluded)

THE COURT: The objection has been overruled, ladies and gentlemen.

THE WITNESS: The answer to your question, Mr. Weingarten, then, is you would have to give me more specifics regarding Sheila MacMillan. The name MacMillan registers several names. The name Sheila registers several names, and I believe I know two Sheila MacMillans. I don't know in what connection you are asking me.

Q An attorney in South Carolina who may have testified at that hearing?

A Oh, I don't know if Sheila MacMillan

testified. I told you I don't know very much about the hearing at all from the standpoint of where we are today.

Q You mentioned a Supreme Court opinion?

A Yes, sir.

Q Concerning Mr. Pride?

A Yes.

Q Now, you do know about that?

A Yes sir, Mr. Pride sent that to me somewhere during the course of the last few years.

Q Is it fair to say that you do not know and did not participate in, the procedural events that led up to the Supreme Court argument?

A If you're talking about the legal circumstances--

Q Yes.

A As to filing papers, that's a fair characterization. As to anything I may have said to Hemphill, I really just don't know. You know, I don't carry a little Hemphill Pride around in my pocket and remember everything that he and I talked about, Mr. Weingarten.

Q All right. Is it fair to say that the South Carolina Attorney General asked that Mr. Pride be

disbarred forever and Mr. Pride's lawyers came in and argued that his crime didn't merit such a serious sentence, but rather he should be indefinitely suspended.

A. I don't know what Mr. Pride's lawyers argued. I don't know what the Attorney General argued. I know that disbarment was sought and at the time the Court rendered his opinion, that Hemphill was indefinetly suspended;as to the arguments, I am not privy to them, and I don't know who made what or when.

Q. Now, when he was in prison, speaking of Mr. Pride, I specifically refer you to July 8, 1980, he wrote you a letter asking you for money or asking you to solicit money for selective prosecution of the appeal.

A. That's right.

Q. And what was your response?

A. In part that I couldn't do that because of ethical considerations and in another part, I really don't have an independent recollection of it, but I'm pretty sure that I did something in response to that letter totally unrelated to going out and raising money for Hemphill in any general way.

Q. Well, it was perfectly clear to you at the time that a federal district court judge, United

States judge, could not go out and up front solicit funds for a criminal defendant who was seeking to appeal his conviction; that's fair, isn't it?

A Mr. Weingarten, I leave this courthouse as a judge with impeccable credentials regarding ethics. I enter into my world as a human being with impeccable credentials regarding friendship. What I may have done for Hemphill as a judge might very well have been considered by some, because I am a judge, to have some ethical overtone.

What I did for him as a friend and a man, I would do again, whether I was a judge or a lawyer or a garbageman.

Q Well you did turn him down. You said, "I can't solicit funds because I'm a judge"?

A You understand that there are ways to do things. What I meant was that I could not pass out a general offering over my signature as I have indicated to you ultimately I did again with reference to William Borders seeking me to solicit funds for Hemphill but I see nothing now nor did I see anything then wrong with me calling mutual friends of ours totally unrelated to my duties as a judge and asking them to help Hemphill, and I have done that in the past and I hope

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that I will continue to do that for that kind of friend and any other ones so similarly situated.

Hastings - cross

Q Well, just so that we are clear here. When Hemphill was in prison, he wanted to appeal his conviction based on allegations of selective prosecution. He wrote you a letter, did he not, and said:

"Solicit funds from our mutual friends to help me finance the appeal."

A He asked me to solicit funds. he didn't say "from our mutual friends," I don't believe, but even if that is the characterization, I deny doing so for the reason that I don't think that a Judge now, then or any time can raise money, not only for a criminal defendant but can raise money for any purpose, schools, hospitals or other kind of things along those lines.

Q Mr. Pride was released from prison in March '81; is that correct, approximately the spring of 1981?

A If you say so and I believe there's been substantial testimony to that effect and, yes, sir, I believe that is when he was released.

Q A couple of months later, on May 26, 1981, the Supreme Court opinion actually came down; is that correct?

A I believe that is correct.

Q Now, that opinion represented a major

Hastings - cross

victory for Mr. Pride; did it not?

A I sure think it did.

Q The Attorney General wanted to disbar him for life and the Supreme Court, in a three to two opinion, indefinitely suspended him?

A That is correct.

Q And I suspect, is it your recollection he was extremely happy and extremely pleased by the decision?

A Yes.

Q And did he have conversations with you immediately upon the result or soon thereafter?

A I don't recall, but it would be fair to believe that such occurred. I don't recall that he called me immediately after it happened. I think he did. I hope he did.

Q And did you ever say, "Hemphy, what does that mean? When can you next practice law?"

A If I did, I have no independent recollection of it, Mr. Weingarten.

Q Well, you don't dispute at this point that South Carolina law mandates that no person indefinitely suspended shall apply for two years for reinstatement.

A Let me answer yes, with an explanation.

Q You do dispute that?

A I said to you that is the law in South Carolina. You said that it shall. I said I could answer you why with an explanation. That explains to me that the word "indefinite" means exactly what it says as far as I am concerned and as to the period of application, if I could analogize that to a person who receives the sentence in a prison, they have an eligible day to do things, but that does not mean that they don't start trying to get out of that penitentiary the minute they are in it.

Q You are not disputing, are you, Rule 37, that says:

"No petition shall be filed before two years for a person who has been indefinitely suspended."

A No, sir, I am not disputing that and I do not know what Rule 37 says.

Q And that was not a subject that passed between you and Mr. Pride immediately upon his receiving news of his indefinite suspension?

A Mr. Weingarten, that could have been a subject between Mr. Pride and myself. But I have no

independent recollection of it and I can't tell you that that is the case. If he told me that it would not mean that I would have thought that he wouldn't, at some point in time, be trying to get his licenses back.

Q Well, what that effectively means, does it not, is that Mr. Pride is not eligible to apply for reinstatement until May 26th of this year; is that not the law?

A Do you want me to give an opinion? I don't think that is what that opinion says. That opinion doesn't say one single solitary thing about the period of time when he could apply.

Q Not the opinion, the law in South Carolina.

A I don't know the law of South Carolina.

Q And that was never discussed between you and Mr. Pride?

A No, sir, I didn't tell you that was never discussed. I said I don't remember having discussed it and I don't deny that he may have discussed it with me, but it would not have made any difference in what I was doing.

Q Well, is it not reasonable that in some conversation between you two, it would have been of

Hastings - cross

major interest when Hemphill Pride could have applied to be reinstated?

A Mr. Weingarten, Hemphill is and was totally consumed with practicing law again and not just anywhere in America. I suggested to try Florida. I suggested Texas, which is not as stringent, for example, my understanding is, with reference to re-admission possibilities of individuals.

I believe that he was consumed with the notion of practicing in Columbia and I begged him not to even bother to try to practice law there.

Yes, it is reasonable to believe that we would have talked about the shalls and the mays, but that wouldn't have anything at all to do with what he said at some other point in time.

Q No, but it does have something to do with what you knew; does it not?

A As you perceive things and so that we can move on, I would think so.

Q Thank you, sir.

[Laughter.]

Q Do you know the next stop for Mr. Pride, what he can do when the two years are up?

A Based on what you are saying here, what

he can do when the two years are up is apply for re-admission.

Q Yes. You know where he could apply?

A Where?

Q Yes.

A So far as I know, it would either be to the Bar or to the Supreme Court. It would be my belief that it would be to the Supreme Court, but it could be to either and-- Yes, sir.

Q I guess-- Do you have any knowledge of the Character & Fitness Committee in South Carolina?

A No, sir, I have no such knowledge.

Q Now, Mr. Pride also is on parole; is he not?

A Mr. Weingarten, I really don't know whether he is still on parole or not. I really don't know.

Q Okay. Following his release from prison, he was on parole?

A Yes, sir.

Q And did you do anything to assist him in obtaining early parole or early release from parole, excuse me?

A No, I did nothing to assist him. His

mother asked me to call the warden, whose last name is Crow, C-r-o-w, and what I did, she wanted him to get to a halfway house in Columbia, South Carolina, and what I did was I called Warden Crow on a given day and I said to him, "Warden, be kind enough to tell Hemphill if he asks you did I call, that I called. He wanted me, sir, to call you and ask you to move him to a half-way house and the fact of the matter is, I don't believe, as a District Court Judge, that I can or should do that, but just help me out with him if he asks you did I call, please tell him that I did."

Q All right. That, of course, has to do with work release in South Carolina.

What about his parole situation?

A I don't recall doing anything specific about his parole situation. I don't know what you are talking about.

Q All right. Is it your understanding of his present status, Hemphill Pride has not yet applied for reinstatement as you said in court today?

A It is my understanding, based on what I learned here in this courtroom and the other courtroom, that that is his present status.

Q And is it your understanding as well that

Mr. Pride is presently on parole?

A No, sir, that is not my understanding. I do not know whether or not he is on parole.

Q I would like to move to the October 5th, 5:12 p.m. telephone call. I would like to approach the witness and give him a copy of the transcript.

This comes from the Government's composite wiretap.

A Thank you, sir.

Q Who placed this call, sir?

A This call was placed by me, Mr. Weingarten, to Mr. William Borders.

Q And when was the call placed and where were you when it was placed?

A It was placed at 5:12 p.m., on the day of October the 5th and it was placed from my chambers here at the Southern District of Florida.

Q Was this after you were recessed court or was it during your recess when you anticipated going back to the Bench; do you recall?

A No, sir, I don't recall, but I believe that it was after I recessed court. I am just absolutely not certain.

Q All right. So this is the Santorelli trial?

A Yes, sir, and when I said to you that was drug importation, in re-checking that, that was something to do with extortion, but drugs was somehow or other involved.

Q All right. If you would--

A Yes, sir.

Q --begin when Mr. Borders gets on the line.

A Where he says, "Yes, my brother"?

Q All right. I will be Mr. Borders and you be you, okay?

A Fine, sir.

Q "Yes, my brother.

A "Hey, my man.

Q "Uh-huh.

A "I have drafted all those"--

MS. WILLIAMS: Excuse me, your Honor. I object to this.

May we approach the Bench?

THE COURT: Counsel may approach the Bench.

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MS. WILLIAMS: You have got a tape. I object, your Honor. The jury has heard the tape. The tape is in evidence.

What is the purpose of all this?

MR. WEINGARTEN: To explain the meaning of that telephone call.

MS. WILLIAMS: You can ask him to explain it; you don't have to rehash it.

Hastings - cross

MR. WEINGARTEN: Certainly I would be entitled to read it and say, "What do you mean by that?" This just simplifies things.

MS. WILLIAMS: Yes, but this characture thing back and forth, I object to it, your Honor. They have heard the actual tape. They don't need anybody to--

THE COURT: This is a predicate you are asking leading up to what he meant by this?

MS. WILLIAMS: They have the predicate. He can just ask the question.

THE COURT: The objection is overruled. This is cross examination.

[Sidebar conference concluded and the following proceedings were had in open court:]

MR. WEINGARTEN: If we could again, sir, I will be Borders and you be you.

THE WITNESS: Mr. Weingarten, isn't this already in evidence on tape?

THE COURT: The objection has been overruled to it.

MR. WEINGARTEN: You have your own lawyer.

THE COURT: You may proceed, Mr. Weingarten.

BY MR. WEINGARTEN:

Q "Yes, my brother.

A "Hey, my man.

Q "Uh-huh.

A "I have drafted all those uh-uh letters for Hemp."

Q Okay. What letters do you refer to there?

A What letters do I refer to? The letters that are in evidence and I don't know the specific exhibit, Mr. Weingarten, but so the record could reflect it, if I could have the exhibit so that we might refer to it.

MR. WEINGARTEN: I think that will simplify things.

THE COURT: Yes, sir. We are referring now then to the letters that I drafted on the date of October the 5th, Defendant's Exhibit No. 29.

BY MR. WEINGARTEN:

Q Where did you draft those letters, sir?

A While I was on the Bench.

Q In the middle of the trial?

A Yes, sir.

Q While the evidence was being received?

A Do it all the time.

Q Write extraneous letters?

A Extraneous letters and other things.

Q Extraneous to the trial?

A Extraneous to that trial, matters having to do with that trial, opinions, receive messages, read opinions, read memoranda and do a variety of things. Some of us can listen and do things.

Q And routinely when you do things that relates to the trial, it is with respect to the trial then proceeding before you; does it not?

A I don't understand the question. Would you--

Q When you routinely do things from the Bench, it relates to the trial before you; does it not?

A Absolutely not. Not everything I do routinely. I am a working person on the Bench and there is rarely a time when I don't have some papers and that I am not doing something on the Bench.

Very occasionally. It has to do with the specifics of the trial. In almost every instance where there is a jury trial, I have done some work of this

kind, not always personal, but in non-jury trials, my undivided attention is required; undivided in the sense that I must pay attention to the fact because I am the fact finder in the non-jury trial.

Q Just so we understand, when there is a jury trial, your attention is divided?

A My attention may very well be doing something and paying attention to what is going on in the courtroom at the same time and my training and discipline allows for me to be able to do that.

And I could do it right now if you wish a demonstration.

Q Now, I am satisfied with your just answering my questions.

A Yes, sir.

Q You go, "I drafted all those, ah, ah, letters, ah, ah"?

A Are we back to you and I doing this little cutsy?

MR. WEINGARTEN: I would ask that that be stricken.

THE COURT: That will be stricken. Comments of that type will be avoided.

BY MR. WEINGARTEN:

Q Mr. Borders goes, "Ah-hah."

And then what do you say?

A I say, "And everything's okay. The only thing I was concerned about was, did you hear if, ah, hear from him after we talked?"

Q And what are you talking about there?

A I am referring specifically to the call that I received from Mr. Borders either on September 20th or 21st wherein he indicated to me that he expected to see Hemphill again, and he was asking him specifically about his exact financial condition.

I told you that Borders had been somewhat

of a pest on this subject and that is the truth.

Q So you were concerned whether or not Mr. Borders heard from Mr. Pride after you and Mr. Borders spoke on September the 20th?

A Because he told me he expected to talk with him and/or see him, and I don't recall exactly what all of the conversarion was, Mr. Weingarten.

Q Have you checked Mr. Borders' toll records?

A I have checked the toll records for Mr. Borders, as I indicated to you. I looked at all of the telephone records that you supplied to me. I looked at them over the last three days almost entirely, those that you supplied, and there were some that you did not supply.

Q Does Mr. Borders' toll records on September the 20th or 21st, either home toll records or office toll records, reflect a call to you?

A No, I don't believe that they do. But that doesn't mean that Bill Borders didn't call me.

I am sure he called me from other places and I have called him from other places, Mr. Weingarten.

Q Would you turn the page, please?

A Yes, sir.

Q Mr. Borders goes, "Yeah."

And what do you say?

A No. If we are on Page 2, Mr. Borders says, "Um-hmm."

You asked to turn the page and Mr. Borders says, "Um-hmm."

Q Okay.

And then what do you say?

A I say, "All right, then."

Q And Mr. Borders, "See, I talked to him and he wrote some things down for me."

What did you take Mr. Borders to mean there?

A The best that I can think that I took that he meant had to do with Hemphill's financial condition.

Q Hemphill Pride wrote some things down from Mr. Borders?

A Mr. Pride has testified he did not do such.

This is a conversation with Mr. Borders and I and this is what I thought Mr. Borders meant, Mr. Weingarten.

Q So when you said, "I understand," you

thought that Mr. Pride had written some things down for Mr. Borders?

A When I say, "I understand," that's an affectation of mine that I would like to get rid of, but in this particular instance, I specifically think that it had to do with financial condition of Mr. Pride, yes, sir.

BY MR. WEINGARTEN:

Q And then Mr. Borders goes, "And then I was supposed to go back and get some more things."

A Yes, sir.

Q What did you think he meant there?

A NOthing more than his financial condition and we have--well, at least I've told you about what I knew that it was about and that is all that I can tell you.

Q Well, you knew what Mr. Pride's financial condition was, didn't you?

A Pretty much. I thought that he was in bad shape.

Q Why was it necessary for Mr. Borders, A, to get some things from Mr. Pride, and then go back and get some more things from Mr. Pride?

A I don't know. You'd have to ask Mr. Borders.

But regarding the financial undertaking it was Mr. Borders trying to get me to do, again, something that I had deemed then and now to be inappropriate and that is to send out a general letter having to do with his financial condition.

Q And even though you thought it was

inappropriate, you took the time from the Bench, in the middle of a trial, to write a letter?

A And I have taken that time at the Bench to do lots of things, and I have explained to you that I agonized an awful lot about this and you see, I like Hemphill, Mr. Weingarten, and I have always wanted to help him. And it is just that simple. I guess I could say a lot more.

Q Well, when Mr. Borders says, "And then I was supposed togo back and get some more things."

A I've already answered you.

Q Just so I am perfectly clear on your answer, you thought he was going to get some more information about Mr. Pride?

A That is all that I could have possibly had in my mind at that time, sir.

Q Could you conceive of any information that Mr. Borders could get that would be relevant to what you were about to do?

A Concerning his financial condition?

Q Yes.

A The specifics, yes. How much it was that he needed.

Q You didn't know that?

A No, I didn't.

Q And that would have affected the kind of letter you wrote?

A No. It wouldn't have affected the kind of letter I wrote because that night I agonized about it and I determined that I would speak, especially speak with the two of them and get it straight once and for all that I would do anything personally I could for Hemphill with personal friends, but I wasn't about to send a letter over my signature that would go to general members of either the Bar Association or out for purposes of trying to raise money. And that is all it's about.

Q How do you respond to Mr. Borders?

A I said, "All right. I understand." Again, the affectations. I said, "Well then, there is no great big problem at all. I'll see to it that--and communicate to him. I'll send the stuff off to Columbia," meaning South Carolina,"in the morning."

Q Did you send anything?

A NO, I did not. And again I think I answered you I told you that I had some serious trepidations about that aspect of trying to help Hemphill.

Q Why didn't you simply say, "Borders, can't

do it. It's unethical. I am agonizing over this. Just can't do it."

A Yes, because I was going to tell him exactly that and I might add I was not going to do so with any timidity.

Q But nevertheless in this call, you say, "I will send the stuff off to Columbia in the morning"?

A That is correct.

Q You also say, "I'll communicate with him." Did you mean Hempy?

A Right here, the letters.

Q Did you communicate with him?

A Did I at some point in time?

Q Yes, with those letters?

A These, right here?

Q Yes.

A At some point in time I have spoken with Hemphill about these letters.

Q And you know what Hemphill's testimony about that is, don't you?

A I don't know Hemphill's testimony.I don't know Hemphill's testimony and I hesitate to answer you because I think you might stretch the point.

Q All right. So we are 100 percent clear on

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this, you wrote these letters, Government or Defense Exhibit 29, from the Bench during the Santorelli trial on October 5?

A 100 percent-clear.

Q Did you date them?

A No, I did not.

Q A nd of coruse you didn't mail them?

A No, I did not mail them. And I don't customarily, when I vacate things and draft them of this kind, I don't customarily date them for my secretary. And I believe she was prepared to testified to that.

Q Did you give these to your secretary?

A No, I did not.

Q What did you do with them?

A Kept them with me.

Q PUt them in a desk drawer?

A I am sure that on that particular day, I put them in the desk drawer.

Q Did you bring them to Washington on October the 9th?

A NO, I did not.

Q You were planning to see both Mr. Pride and Mr. Borders--

A I did see both Mr. Pride and Mr. Borders

and I was planning to discuss both facets of these matters with them.

Q Were you ever intending to mail these letters?

A The character part, yes. The solicitation of funds, no.

Q When you told Borders on the phone that you were going to mail them to Columbia in the morning you had no intention of doing that?

Is that right?

A When I told him that on the phone, I did, Mr. Weingarten. That night I have indicated to you that I agonized about it. I see Bill had been really bothering me about it and I guess maybe that is hard for you to understand but as it is, that was the case.

Q What do you mean when you say "bothering you about it"? Was he--

A He called a lot and it was as if he didn't understand. You see, you have asked me about the inappropriateness of it. I told him at some point in time that it was inappropriate and that I didn't think that I could. I even so much as told Bill about the fact that Hemphill had asked me to do something similar about raising money for him. But what you are not making

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clear is that this is something that Bill Borders and I talked about

Hemphill didn't have anything to do with this. And you are not making that clear.

Q Well, you have a conversation with Mr. Borders on October the 8th before you fly up. Is that right?

A October the 8th from Albany, Georgia I called Bill and I told him what time my flight was coming to Washington.

Q Did he pester you about Hemphill Pride in that telephone call?

A No, he did not.

Q Did he mention anything about that letter?

A No, he did not.

Q Had you mailed the letters, at that time?

A No, I had not.

Q Had you had any communication with Mr. Borders between the five, twelve, October 5 call and the 10-8 call?

A I have no independent recollection of it but I am sure the way you all were wiretapping us you

would have it.

Q And do we?

A I don't know.

Q As to the character letters, to what effect, what effect did you think those character letters would have in South Carolina?

THE WITNESS: Your Honor, I appeal to the Court because I know the answer that I give is one that we have gone over.

THE COURT: Excuse me. Is your counsel objecting?

THE WITNESS: Put the question again, Mr. Weingarten.

THE COURT: Is there an objection?

THE WITNESS: Sir, I was appealing to you.

THE COURT: If there is an objection the Court will rule on it. Only counsel may object.

Does Miss Williams object?

MS. WILLIAMS: There is no objection.

THE COURT: What?

MS. WILLIAMS: There is no objection.

THE COURT: All right. You will answer.

THE WITNESS: Put the question again.

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(Record read)

A. A tremendous effect for the reason that Hemphill had indicated to me what the substance of his conversation was with Woodrow Lewis, the Chief Justice of the South Carolina Supreme Court, and I deigned without him having any input, that it would be wise for him to let that man hear, since he had, in his opinion, denegrated him and he went expressly for the purpose as he related to me, of discussing with him that denegration and the fact that he knew that it would impact upon his opportunity to practice law again in South Carolina.

So additionally that, not knowing whether or not he would need such assistance with the Supreme Court Justice, I also deigned that it might be necessary with whomever he would appeal to the South Carolina Bar Association.

And it was those matters that I spoke with the four persons and was prepared to speak with others about primarily because Mr. Pride told me that the Chief Justice of the South Carolina Supreme Court was a person that held the key to whether or not he practiced law again and that was expressly why they came into existence.

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Q And at that time did you know that the Chief Justice could not, under South Carolina --

MS. WILLIAMS: Objection--

Q --law, turn that key for another eighteen months?

MS. WILLIAMS: Objection.

A No, I did not, but I also know some other things the Chief Justice wouldn't do.

MR. WEINGARTEN: Excuse me, Your Honor. I am going to object to the volunteered statements by the witness?

THE COURT: All right. That last statement will be stricken and disregarded by the ladies and gentlemen.

BY MR. WEINGARTEN:

Q Now, you indicated in your direct testimony that there is a notation on those letters that they were in the possession for some period of time of the FBI. Is that right?

A Yes, sir.

Pursuant to the Rules of Federal Procedure, the letters were given to Mr. Murphy and from Mr. Murphy transported to Washington and my recollection os that a laboratory report of sorts was rendered and you and I had a discussion at the Customs Building on January 3rd regarding some other report that subsequently you told me about, but I don't remember what you told me.

Q Is it fair to say that tests were

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performed on those letters to see if the ink could be dated and the tests were inconclusive?

A Yes, sir, that is fair to say.

Q And when were those letters turned over to the Government?

A Mr. Weingarten, they were turned over in Fort Lauderdale.

Q Is it fair to say--

A You know the date, you were there.

Q Was it early December--

A I would think--

MS. WILLIAMS: The question is irrelevant as to when the letters were turned over. They were turned over whenever the rules required they be turned over.

MR. WEINGARTEN: I think I can explore that, Your Honor.

THE COURT: The objection is overruled.

MR. WEINGARTEN: I would like to approach the Bench.

(Sidebar conference between the Court and counsel out of the hearing of the jury as follows:)

MR. WEINGARTEN: I find it extremely

disconcerting that every time I ask the question, every time there is an answer, every time there is a ruling there is cat calls, hisses, noise from the crowd.

I would ask that the jury be removed and the Court give a stern admonition and the admonition be followed by removal of people who are disrupting the proceedings.

THE COURT: This cuts both ways, right?

MS. WILLIAMS: Um-hum.

THE COURT: All right.

(Sidebar conference concluded and the following proceedings were had in open court)

THE COURT: Ladies and gentlemen, the Court is going to excuse you for just a moment. Probably about ten minutes, and then we'll return and resume.

(Jury excused from courtroom)

THE COURT: The record may show the jury has departed the courtroom.

Both counsel, both counsel for the Government, Mr. Weingarten, and counsel for the defendant, Miss Williams, have requested this Court sternly to admonish the spectators that there is to be no more

noise, conversation, whispering, applause, hissing, or laughter. And the marshals are instructed to keep a close eye on the spectators and if anyone -- if there is any further noise of the type which we have had today, we will excuse the jury and the marshals will have to evict, remove from the courtroom, those who are responsible.

And there is a very real possibility they will be held on contempt of court charges at this time. I want you to understand this is not only we don't know the impact on the jury, this could be prejudicial to the Government. It would move likely be prejudicial to the defendant. And I am sure the witness understands, the defendant himself, and would join in this admonition.

It is going to stop. If necessary, the Court will have to move back into the smaller courtroom and permit no one other than the members of the Press and those who have been cleared by the marshals and those who can behave themselves as present in the court of law.

Do either counsel wish to be heard?

MR. WEINGARTEN: No, Your Honor.

MS. WILLIAMS: No, Your Honor.

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THE COURT: We'll recess for five minutes, return and continue this trial.

(Recess taken, after which the following proceedings were had in the presence of the jury:)

THE COURT: We will continue until about 4:30, ladies and gentlemen, unless there's a logical place to break between now and then.

Mr. Weingarten?

MR. WEINGARTEN: Thank you, your Honor.

BY MR. WEINGARTEN:

Q Judge Hastings, when we recessed, you had testified, I believe, that you had turned over the three letters to the Government pursuant to the rules of discovery in December 1982. Is that correct?

A That is correct.

Q And those rules of discovery are called reciprocal discovery. The Government turns things over to the defense and the defense turns things over to the Goverment; is that a fair way to describe it?

A Rule 16, yes, sir.

Q Now, you were indicted in this case in December of 1981, one year before you turned those documents over?

A That's right.

Q Is it also not indicated the Government turned over to you its tapes which had been produced as a result of its investigation?

A That is true.

Q And you knew then, did you not, that whether or not there were letters to explain the October 5th, 5:12 p.m., call would be a central issue at trial?

A I knew.

Q And you were obliged by law to make reciprocal discovery, were you not?

A Not while the stay was in effect. And as soon as the stay lifted, we did come forward.

But insofar as any obligations are concerned, I had my doubts about my attorney at that time and I think you know that and I would rather not get into that.

MR. WEINGARTEN: Well, for purposes of the record, I would like this to be marked the next Government exhibit.

[Government's Exhibit No. 37 was marked for identification.]

BY MR. WEINGARTEN:

Q I hand you, sir, what's been marked Government's Exhibit No. 37 and ask if you can identify it.

A Yes, sir.

Q What is it, please?

A This is defendant's reciprocal discovery

inventory No. 1.

Q On February 16, 1982, your lawyer turned over a mass of materials to the Government consistent with the reciprocal discovery rules, did it not or did he not?

A Consistent with what he understood to be the reciprocal discovery rules and this does not include all of what was turned over between the two of you at that time.

Again, you are getting ready to get into an area about my attorney and I think we are going to have a problem.

Q Well, I will continue to ask questions. If there is an objection, I suppose your attorney will make it.

Did your attorney turn over to us the three letters that you claim were written on October 5, 1981?

MS. WILLIAMS: Objection. Your Honor, he has just put into evidence, I believe, the discovery inventory, reciprocal discovery No. 1 and it reflects what, in fact, was turned over.

THE COURT: Well, this has-- Do you intend to offer this in evidence?

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MR. WEINGARTEN: At this time, your Honor, we move in Government's Exhibit No. 37.

THE COURT: Is there objection?

MS. WILLIAMS: No, no, your Honor, no objection.

THE COURT: There being no objection, Government's Exhibit No. 37 is admitted in evidence.

[Government's Exhibit No. 37 was received in evidence.]

THE COURT: Will the reporter read back the question to which objection has been made.

[The question referred to was read back by the reporter as above recorded.]

THE COURT: Is there objection?

MS. WILLIAMS: There is objection, your Honor. He can ask whether or not it is reflected on the inventory which has just been moved into evidence.

THE COURT: The basis of the objection?

MS. WILLIAMS: The document speaks for itself, your Honor.

THE COURT: Well, are you referring only to what's listed here?

MR. WEINGARTEN: I ask the general

question first.

THE COURT: All right. The objection is overruled.

BY MR. WEINGARTEN:

Q To your knowledge, Judge Hastings, were those letters turned over to the Government in February of 1982?

A These letters here?

Q Yes.

A They were not turned over by Mr. William Waterman and Mr. Joel Hirschhorn.

Q A mass of material were turned over; were they not?

A Yes.

Q Bank records, travel records?

A Right.

Q Records having to do with the Romano case?

A The Landmark Bank, Internal Revenue, miscellaneous documents from Landmark, one file labeled juvenile offices, miscellaneous documents relative to Albany State College program of October 8th, thirty-two separate folders containing financial information covering November '79 through December '81, and one

folder containing documents, notes and drafts relative to the Romano order of October 6th and one man's letter purchases to be viewed only, it says.

Q Where were the letters?

A In my possession.

Q And they were not turned over?

A Judge--

Q Yes?

A Yes, with an explanation.

Q They were turned over to the Government in February of '82?

A No, they were not turned over to the Government, but the explanation in reference to them is very simple.

Q Well, the truth of the matter is that they didn't exist at that time; isn't it, Judge?

A No, sir, that is not true.

Q Do you want to turn your attention to October the 7th on the chart?

A Yes, sir.

Q Do you see a call at 12:20, a call from Rico to Borders, Rico says:

"Nothing has happened yet," and Borders says, "It went out yesterday morning."

A Yes.

Q Did you have contact with Mr. Borders between the 5:12 call when you tell him that you will send the stuff out to Columbia in the morning and that 12:20 call when he says it went out yesterday morning?

A I don't have any independent recollection of having had contact with him.

Q And again on 10/8, you speak with Mr. Borders, you are calling from Albany.

A That is right.

Q Did you tell Mr. Borders you didn't send those letters out because, "I have terrible ethical problems with it"?

A No, I did not.

Q I would like to turn your attention to October the 9th.

A Yes, sir.

Q Your travel plans, as we have heard, were iffy. You had the Santorelli trial, you weren't feeling well, you weren't sure whether or not you were going to go up to Washington; is that right?

A I wanted to, but I was not absolutely certain that I would get to go in the early portion of the week of October the 5th and, at some point on that

Friday, I even indicated to my secretary that there was some concern that I had about whether or not the Santorelli trial would conclude.

Q When did you finalize your travel plans? Let me ask you a simpler question.

A Yes, yes.

Q When was it clear for you that you were going to Washington?

A It was pretty clear to me, I would think, the night of the 6th, that I would be able to make the full trip which would include Albany, Washington and Orlando.

Q Now, the jury has heard a call from Mr. Rico on the 7th. After the 2:20 call when he acknowledged receipt of the order and indicates he is coming to Washington; is that correct?

A Well, that is your characterization of the call. I think that that is in part correct, but that is not all of what was said, nor how it was said.

Q Is it fair to say that during that call, I think it is 7:39 p.m., Rico says, "Yeah, we finally got the order," or words to that effect?

Perhaps I should read it exactly as it is stated on the chart.

"Telephone call, Borders to Rico.

"BORDERS: You are not coming this way; are you?"

A That is different than what you said.

Q What is Borders saying there?

A Why don't you ask Mr. Borders, Mr. Weingarten? I don't know.

Q You don't know what he is saying there?

A Yes. This portion of the excerpt says, "You are not coming this way; are you?" But there was a full conversation that evidently took place between

Mr. Rico and Mr. Borders and I wasn't there and I don't know what they were talking about.

Q Have you heard the conversation?

A In court.

Q And is not a fair summary of that conversation, "Rico to Borders: Yes, the order has come."

Border says, "Why don't you come up to Washington," or words to that effect?

Did they not set up the October 9th payoff at that 7:39 call?

A I am not so sure, and I don't want to quibble with you because I don't care what Rico and Borders did.

Q All right. "He" meaning Mr. Borders picked you up at the airport on October the 9th?

A Yes, sir.

Q You went to a hotel called the L'Enfant Plaza?

A That is correct.

Q You checked in and you received adjoining rooms?

A By the designation of Barbara Cruel; no previous arrangement of either myself or William Borders, to my knowledge.

Q And eventually you wound up in a law office, couple stops and you made it to Mr. Borders' law office?

A Yes, sir, if you wish to skirt through them that way. I think when you look at the surveillance log and what I said to the FBI that that is exactly what I said to them.

Q Okay. Did you go to the law office together?

A Yes, we did.

Q Mr. Borders made some telephone calls from the law office?

A Mr. Borders was handed either five or six messages by Ms. Rogers and I went into the bathroom and when I came out of the bathroom, he was on the phone.

And he made yet another call while I was standing there talking with Ms. Rogers and subsequent to that, I believe, you know the events as well as I do.

Q Did you ever hear Mr. Borders' call?

A No, I did not.

Q Was he making the same call that we have heard in court to Mr. Rico at the Twin Bridges Marriott in Virginia?

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A I didn't see him dial and I don't know where he called. I would not doubt but at that period of time that Mr. Borders made that particular call to that establishment.

Q So, he was calling Rico at the Twin Bridges Marriott in your presence?

A It is distinctly possible that I was in the office at the time that the call was made.

Q Eventually Mr. Borders took off?

A He came out and said to me that he was running out of time. Those were his exact words and I asked him if he could just be kind enough to point me in the direction of a luggage store.

I said nothing, as it appears, that the FBI thinks that I said about catching a cab. In Washington, you don't catch cabs, you just hail them. Calling a cab is what they said. Just go out and hail them.

And I left his office walking and walked to the place that has already been testified here about.

Q Did you know where Borders was going?

A No, sir. I had no knowledge of where he was going at that time.

Q He didn't tell you?

A No, sir.

Q You stopped at Nicky Young's Dress Shop?

A That is the dress shop owned by Ms. Brenda Russell.

Q Did you make some telephone calls?

A I may have made two telephone calls while I was at Brenda Russell's office.

Q Do you recall where you called?

A Yes, I recall calling Joyce McKay and not being able to get her and I recall calling Noel Smith after Ms. Russell had tried to get her and gave me the number and I called Noel Smith and she was not available either.

So I spoke with no one on either of the calls and Brenda was very gracious in letting me utilize her facilities.

Q And then you went to a luggage store, I guess, across the street from Nicky Young's and you bought a purse and you had luggage fixed.

A I didn't have luggage fixed. Neither Camelier & Buckley, nor did the Georgetown luggage design do repair work.

Q So you just bought the one purse?

A I bought one.

Q Back to the L'Enfant Plaza, had lunch in your room, drinks with Mr. Pride. You went back to your room and there was a call from Mr. Pride; is that a fair summary, sir?

A If you wish to get to that point, yes, sir. That is a fair summary.

Q Now, Mr. Pride told you several things; did he not? He told you that Borders had been arrested, that the arrest had something to do with a bribery in your courtroom and that the FBI wanted to talk to you?

A Yes.

Q Is that a fair summary?

A For the moment of confusion that existed, as best I can recall what Mr. Pride said, yes, sir, that is a pretty fair summary, save the fact that he also said who called and I believe he gave me the name of one of the FBI agents.

I don't believe he gave me the name of two FBI agents. But I believe he said that an agent Murphy.

He also said the Department of Public Integrity and Mr. Weingarten that is the first time I had ever heard that name in my life and that is why it

was pretty easy for me to remember.

Q And you testified that after Mr. Pride told you those things, you went back to your room and made some telephone calls?

A I made two telephone calls after Mr. Pride told me those things.

BY MR. WEINGARTEN:

Q Sir, you are a United States Judge, are you not?

A For life.

Q Did it ever occur to you to call former United States Judge Webster, the Director of the FBI, and say, "What in high heavens is happening here?"

A No, sir, it did not occur to me at all to call former Judge Webster and ask him what was happening here.

What occurred to me was what was happening and that is that lawyers trade on Judges' names all the time and my immediate thought was that based on how shaky Mr. Borders had been acting I thought, "Oh, my God. He in some way has involved me in something." And those were my immediate thoughts.

I had no responsibility to call Mr. Webster or anybody else.

Q And it never occurred to you to call the Director of the FBI and former U. S. Judge and say, "This lawyer is trading on my name and I want to clear this up immediately"?

A Never occurred to me to do that.

Q What calls did you make?

A I called my mother and I called Ms. Williams at the Equal Employment Opportunity Commission here in Miami.

Q And how were these calls made?

A They were placed from my room, sir.

Q And charged to whom?

A They were charged to the room. So best as I can recall, you dial "81" and then the number.

Q Now, you have seen the room charge, have you not?

A Yes, sir, I have.

Q And are these calls reflected on the room charge?

A No, they are not. And that is very disturbing to me, Mr. Weingarten.

Q In fact, they are not reflected on the room charge?

A Even more than that, that a room charge for when I was not even in the room on the day of the 10th doesn't show a particular call and none of the local calls that I made--and I believe the L'Enfant Plaza charges either seventy-five cents or more for each local call, and none of them are recorded, either.

But what you must understand is that

Miss Cruel says that that is not particularly unusual for a hotel.

But even more important than that, there was a lot of confusion, I am sure, surrounding Mr. Borders' arrest.

Q All right.

You are certain that sitting in that hotel room after Mr. Pride gave you the news, that you made two long distance telephone calls to Florida and you charged them to your room?

A Right. And I have been back there and Miss Cruel told me something about the records being hold down in some hole there at the L'Enfant Plaza.

I am certain about what I did. I am not certain about what the FBI did.

Q All right.

You left the hotel immediately after hearing or not immediately, gathering your things to go and leaving; is that right?

A It wasn't as immediate as you make it sound, but indeed I did leave and I came back to Florida. And I have told Mr. Simmons and Mr. Hargin of the FBI how I got back and when I got back and in part what I did when I got back.

Q Did you advise the hotel that you were leaving or did you just walk out?

A I told you earlier that Mr. Borders had indicated to me that the room would be taken care of.

Q Did you tell the hotel that it would now be free?

A No, I said nothing to the hotel when I left.

Q And, of course, there has been some testimony about your suit. You left the suit as you left the hotel?

A That is correct.

Q You didn't take the suit with you?

A That is correct.

Q And your testimony is that you told Hemphill Pride to take care of it?

A I gave Hemphill a hundred dollar bill when I left the establishment.

Q Was that for any specific purpose? Was that for his benefit or was that for your suit?

A I said to him to take care of what had transpired there, specifically the suit and the soup and stuff that he and I had had, and I had reference to that.

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I didn't use those words, though, Mr. Weingarten. I just said, "Take care of the things that we have had and get my suit." Yes, sir.

Q And I guess he just forgot the suit because it remained at the L'Enfant Plaza, didn't it?

A Mr. Weingarten, you may ask Hemphill. I recall his testimony was that he said he knew nothing of my suit. And why he left it there, I really don't know. But it is no problem.

Q What was he going to do with it, take it back to South Carolina?

A No. When he received it, I asked him to give it to somebody from Florida and ask them to bring it back to me, whoever was there from Florida, and there were people that were coming up other than myself.

Q Couldn't you just have told the hotel to do that, to send it along to you?

A I could have.

Q Did you tell Mr. Pride, "You are on parole. I don't want you to get involved," or words to that effect after Mr. Pride offered to drive you to the airport?

A Yes, sir, words to that effect.

Q Now, you, of course, went to the Baltimore-Washington International Airport?

A Yes, sir.

Q You took a cab?

A I took a taxi.

Q You hailed the cab outside the L'Enfant Plaza?

A I didn't have--hail one. Hemphill walked with me and cabs come up all the time at the L'Enfant Plaza as they do at a lot of hotels, and I got in a taxi and I went to Baltimore.

Q How much did that cab ride cost you?

A Fifty even.

Q Where was your car?

A At the Miami International Airport.

Q And that Eastern flight, Flight 197, that was leaving National Airport at 4:30 arriving non-stop at Miami would have beenaa perfect flight for you, wouldn't it?

A Perfect in retrospect.

Q It would have gotten you in two and a half hours early; your car would have been there; you would have jumped in your car and driven home; is that not correct?

A If you were to isolate on the event that way. But if you have what was going on in my head, I didn't know 197 the way I did the other flights and I didn't know that 5:05 Delta flight like I thought I did and I thought I was going to be able to get the 5:05 Delta flight non-stop to Fort Lauderdale. And I wasn't successful.

My recollection and maybe it was that I don't leave Washington that often at 4:30, and I don't doubt that I have--but my recollection was that all of the flights out of National would have gone through Atlanta. And if you go through Atlanta, you have a lay-over.

That is what happened to the Baltimore flight and that is why I wound up catching what is now identified as the 6:30 flight which left Baltimore late but did make some time en route.

BY MR. WEINGARTEN:

Q When was the last time you were in Washington prior to the Borders' gala?

A I don't remember right off the top of my head, as you ask me that question.

Q There has been some testimony that you were in Washington around July 20th.

A I am pretty sure I was there for an American Bar Association at that time. I am not certain I was not back at some other point in time. I just have no independent recollection.

Q Do you recall how you got home from Washington on July 20th?

A I don't recall.

MR. WEINGARTEN: Mark this Government Exhibit 38, please.

[Government's Exhibit No. 38 was marked for identification.]

BY MR. WEINGARTEN:

Q I hand you, sir, what has been marked Government's Exhibit No. 38 and ask if you can identify it.

A Yes, sir. This is a coupon that indicates Mr. A. Hastings, Miami-Washington International-Miami,

and it is a continuing one that has 158F and 2-A, 2-G, and some other numbers written on it.

Q Maybe I can help, Judge Hastings.

Isn't it a fact that you took Flight 197 home from Washington, the same flight that was available that Friday, the last time you were in Washington?

A It is distinctly possible that I did.

But if you look on here, I think you will see the second coupon might very well indicate at least a go or travel, this one coming back might indicate that the 197 but the time of the flight at that particular time was 5:30.

Q So, you would have had more time to make the flight if it left still at 5:30?

A But, you see, you are quibbling. That wasn't 4:30, it was 5:30, and the 5:05 Baltimore flight was the one that I thought went directly to Fort Lauderdale, Mr. Weingarten.

Q What time did you leave the L'Enfant Plaza?

A As best I can recall, it would have been about twenty or twenty-five minutes before 4:00. But, again, you are asking me to place a specific time on a most difficult day and I don't recall.

But I know this much, that it would take, as Agent Bird said, roughly that amount of time on a normal day.

But it may come as a surprise to you to know that the drive from Washington to Baltimore was so smooth and there was so little traffic on that particular day until I went to sleep and that is something I don't normally do.

Q The flight--the traffic on Friday afternoon from Washington to Baltimore?

A At the time that I left the L'Enfant Plaza Hotel. To my recollection, there was just no real backup and there has been some question as towhether I went the Expressway. We didn't go to the Expressway. We went through New York Avenue, and there was a lot of construction on New York Avenue en route to the place, but once we hit whatever that Pike is, as indicated to you, I hadn't been feeling well and I had been taking aspirin and some antihistimines, and I dozed off while we were driving.

There was no backup or serious accident.

Q You snoozed on the way to the Baltimore Airport?

A In part. I dont know whether you want

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to call it snoozing or not, but I dropped off while the guy was driving. His cab was kind of hot, and it wasn't a particularly warm day.

Q Did you ever check with National Airport about that non-stop Eastern flight?

A No, sir. I did not call either airport.

Q And your thinking was that there would be no flights from National Airport that would fly you non-stop from Washington National Airport--

A That was my thinking.

Q --to Miami?

Even though two months ago you had taken one?

A Yes, sir. That was my thinking at that particular time. I have traveled that way an awful lot, an awful lot.

MR. WEINGARTEN: Move Government Exhibit 38 into evidence.

THE COURT: Objection?

MS. WILLIAMS: No objection.

THE COURT: There being no objection, Government Exhibit 38 is admitted.

[Government's Exhibit No. 38 was received in evidence.]

Hastings - cross

BY MR. WEINGARTEN:

Q Had you made an airlines reservation to be home prior to hitting the airport?

A I don't know what period of time you are speaking of.

Q I beg your pradon.

October the 9th, did you make a reservation on a flight back to Florida prior to arriving at Baltimore Airport or did you make it only once you got at the airport?

A So far as I can recall, and Miss Hutchison and I went around and around about that, my reservation was only concluded once I arrived at the airport.

Q So, in other words, you got in a taxicab not having a reservation?

A That is correct.

Q You only made a reservation once you arrived at the airport?

A Not uncustomary at all. Do it all the time.

Q That is because you were so confident there would be flights available for you and a seat available for you when you got to Baltimore?

A Had no problems with that. Happens all the time. Had caught that flight, too.

But if you check all of the records not too long before that time.

Q You remembered that flight but you forgot the flight that you had taken the last time--

A Exactly.

Q --you were in Washington?

I want to ask you about telephone calls that you made from BWI.

A Yes, sir.

MR. WEINGARTEN: I ask for defense Exhibits 38, 39 and 40, defense exhibits, please.

Thank you.

BY MR. WEINGARTEN:

Q Judge Hastings, I hand you what has been marked defense Exhibits 38, 39 and 40. Just look at those for a second, please.

What was the first call that you made from BWI? Can you tell from looking at those exhibits?

A Yes. It appears--if you would just hold on and let me look at the whole thing?

First call would have been at 4:37 p.m.

Q And you called home, did you not?

A Yes, sir.

Q And you made that call from a telephone booth, did you not?

A That is correct.

Q And did you speak with anyone?

A Yes, I did.

Q And with whom did you speak?

A I spoke with my mother.

Q How long was that call?

A That call was for four minutes.

Q Okay. What is the next call? Did you call again to your home at 4:43 p.m.?

A That I did.

Q And did you speak with your mother again?

A Yes, sir, I did.

Q And did you place that call from the same telephone booth?

A Yes, I did.

Q And did you speak for two minutes?

A Two minutes.

Q Now, did there come a time at 5:06 p.m., when you went to a different telephone booth and called Patricia Williams?

A Yes, I did, but not so much went to. I had tried to call Ms. Williams before that time and I had been in the conception shop. I had been in the liquor store. When I say "liquor store," the lounge. And I had gotten change.

I had bought a Baltimore newspaper and some magazine that I can't recall. As a matter of fact, I bought more than a Baltimore newspaper. I always bring my mom newspapers and I bought two or three newspapers.

So I had been trying to reach Ms. Williams before that time. So it wasn't as if I walked from this phone booth to another phone booth.

Q So you still hadn't made your reservations; had you?

A At this particular point in time, I had not.

Q And you were going around buying newspapers and going--having a drink prior to making your reservation?

A Precisely. I had missed, if you recall, the 5:05 flight. The next flight wasn't until 6:30. My express purpose at that time was to try to reach Ms. Williams so I can nail down trying to help take care of my mom, Mr. Weingarten.

Q You called her at 5:06?

A That is correct.

Q From Phone Booth No. 2?

A That is correct.

Q And what was that conversation?

A I don't have an independent recollection of it, all, but I remember the call being interrupted by a baby and me indicated that I would have to call back. And Ms. Williams and I were making very fast

Hastings - cross

exchanges in these two calls where I called her back at 5:07, immediately following that one, from the exact same telephone booth.

And then at that particular time, she was trying to relate in substance as much as she could and I was trying to relate in substance as much as I could and the fact that I had spoken with my mom and in addition to that she indicated to me that she was going to have to pick her daughter up and she didn't have anybody else that could get that done.

Q Judge Hastings, isn't it true that at 5:06, you called Patricia Williams from a second phone booth?

One minute later she called you back at a third phone booth?

A That is true.

Q Why did you have to give her the number of another, a third phone booth?

A You would have to know the extent of paranoia, Mr. Weingarten, to appreciate where I was coming from at this particular time. A gentleman was looking just like he was one of you all, breathing down my whole existence.

And I kind of wanted to talk with Ms.

Williams in private, if you don't mind.

Q You were looking for clean lines; is that a fair statement?

A No, it wasn't a question of looking for clean lines. That is your characterization, whatever that means to you. It doesn't mean that to me.

One thing is certain. I didn't want anybody overhearing me and I was hopeful that nobody would be overhearing her.

If that is what you are getting at, indeed, that was the mission.

Q All right. Let's move along.

A All right.

Q 5:06 you called Ms. Williams from a second phone booth and you instructed her to call you back at a third phone booth.

A That is correct.

Q Is it not true that you instructed her, then, to go out to a telephone booth and call you back at a third telephone booth that you were at?

A That is precisely correct.

Q And, in fact, did she do that?

A I believe she did.

Q And that is reflected by 5:22 p.m. call

from Patricia Williams at a phone booth outside her house to you at the third phone booth that you were at, at the Baltimore-Washington Airport?

A That is correct and the express reason being that I felt my telephones and Ms. Williams' telephones were illegally tapped.

Q And you weren't secure at this point. Two minutes later you went to a fourth telephone booth and called Ms. Williams back at the telephone booth she was at?

A Precisely for the same reason that you all have strange and mysterious ways.

Q What was it were you so afraid, Judge Hastings, that the FBI wanted to hear?

A Nothing more than the fact that I wanted to talk with my attorney privately, Mr. Weingarten. You all had done a lot of, in my opinion, wrong things and I wanted to talk to her about what was going on.

Q Now, you flew home to Fort Lauderdale?

A Yes, I did.

Q On your airline ticket, Fort Lauderdale is crossed out and Miami is penned in.

Do you have any idea how that happened?

A No, I don't handle my ticket, per se, and

I made no specific requests, but I can tell you what happened on Flight 237. Flight 237 continues on to Miami from Fort Lauderdale and when I went up and got a reservation, I had, you know, the arrangements as I indicated to come to Fort Lauderdale and if the gentleman wrote it in, however you all say it was written in, and it was a gentleman that I spoke with, then I have no real understanding with reference to that.

My mission, sir, was to get to Fort Lauderdale and I did and I was surprised as the dickens that somebody from the FBI wasn't there when I got off the plane.

Q From the airport, you rented a car?

A Yes, sir, a Hertz Rental car.

Q Did you go home?

A Yes, I did.

Q To your mother's house or to your house?

A I went to my mother's house and I was there twenty-five or thirty minutes, sir.

Q Were there TV cameras and reporters all over the place?

A Not at that time when I arrived. It was some time after 9:00, some time before 10:00.

Q The fact of the matter is, is it not

Hastings - cross

true that you never went home, at all?

A No, that is not true, Mr. Weingarten. I think what you may find is that I went home and you all don't know but then you all don't know a lot of places that I went and a lot of places that I go, as you have tried to.

Q Did you tell the FBI that you never went home at all, but rather called your mother and went to Patricia Williams' house?

A I indicated to you earlier today that when Mr. Simmons spoke to me, I did not tell him all of the particulars on that particular day and there were-- I have my reasons and I wish you wouldn't make me continue to say things regarding how you all do your business.

Q I just have one other question. If your mother told the FBI after you arrived home that she had no idea where you were, had not heard from you, was she doing that pursuant to your instructions?

A Oh, absolutely not. There would have been no way that I would have said that to my mother.

Now, if my mother said that to the FBI, I think you must understand something about what happened.

She and my uncle talked about one brandy, but they didn't talk about how many brandies they may have had, but the FBI had no trouble in following where I was, Mr. Weingarten. They found me at Miss Williams' and I gladly talked with them.

Q They didn't find you at the airport, did

they?

A So far as I know, they didn't look.

Q And they didn't find you at home, did they?

A So far as I know while I was there, they did not come in.

Q Did you ever call them when you arrived home?

A No, I did not.

MR. WEINGARTEN: Thank you, sir. No further questions.

THE COURT: Redirect?

MS. WILLIAMS: Yes, Your Honor.

THE COURT: Would you wish a recess before?

MS. WILLIAMS: Yes,Your Honor.

THE COURT: How long?

MS. WILLIAMS: Ten minutes.

THE COURT: We will have a ten-minute recess before redirect examination.

(Recess taken after which the following proceedings were had in the presence of the jury:)

THE COURT: Redirect?

MS. WILLIAMS: Yes, thank you, Your Honor.

REDIRECT EXAMINATION

BY MS. WILLIAMS:

Q Judge Hastings, on October 5th, when you asked Jeff to complete the Romano order, would you characterize the Romano order at that time as a stale order?

A Oh, yeah.

Q All right.

A It had been in the office. The last thing that I had done indicating that a brief written order would follow was on July the 8th. So it had been in the office for as much as four to five months by that time.

Q All right. Now was the delay not due in part in an attempt to allow the Eleventh Circuit to sit en banc and make a decision on Martino?

A Jeffrey had said something along those lines.

MR. WENGARTEN: Objection. That's leading question.

THE COURT: Yes. The objection is sustained. THe answer will be stricken.

Hastings - redirect

Counsel will refrain from leading.

BY MS. WILLIAMS:

Q What role did the pending Eleventh Circuit en banc decision play in delay in the issuance of the October 5th order?

A All right. I think Jeffrey as well as another law clerk that worked with me at that time, a fine young black law clerk named Charlester Williams, had had a discussions with reference to the potential for the law in the circuit changing and as to that mysterious--not mysterious to me--en banc that we keep talking about, and Jeffrey did say someting to me somewhere along the line about the fact that we could hold up, and I don't recall the particulars,but until such time as an en banc did develop and, as it was, it developed at some point-in time.

Q Did you know on October the 5th that the en banc decision was imminent?

A I had no idea on October the 5th there was any imminent en banc.

Q Is it fair to say that on October the 5th you felt that you had waited long enough?

A Indeed, and as indicated over and over again, I was going to be away from my office for a

protracted period of time, and you should only have that experience where a law clerk leaves things undone that you don't want to happen, and I thought that was a part of my responsibility and that's all there is to it.

Q Judge, did you personally see Jeff Miller with a calculator in hand on October 6th?

A I sure did.

Q What was he doing?

A To the best of my recollection, he was calculating the amount of money that was going to be returned to the Romanos pursuant to the law in the circuit at that time.

Q Then, is it fair to say that it wasn't known byJeffrey until he calculated it, what amount would be forfeited?

MR. WEINBERGER: I hate to object to this point, but that is so leading.

THE COURT: Yes. Counsel will refrain from leading, Miss Williams.

BY MS. WILLIAMS:

Q Judge, there's been discussion about the telephone traffic between you and Bill Borders.

A Yes.

Q Do you deny that there was such telephone

traffic between you, before the Romano case?

A Oh, no. Bill Borders and I had been talking to each other off and on during the ten-year period at differnt times with heightened interest and at other times, and no, I did not deny that.

Q During the Romano case?

A During the Romano case, I do not deny talking with him.

Q During periods of activity on the Romano case?

A I do not deny that. As a matter of fact, I assert that those are the only calls the toll records reflect, but I am sure that we probably talked where either his toll record or my toll record does not pick up that particular conversation.

I don't deny talking with Borders.

Q During times when there was no activity on the Romano case, were you talking to him?

A Oh, indeed, lots and lots of times.

Q Now, was any of the telephone activity between you and Bill Borders related in any way to the Romano order?

A Not one whit.

Q Have you ever--what is the procedure in

your office when an order is completed?

A I sign it, if I approve it. If I do not approve it, I return it to the law clerk with the appropriate recommendations with reference to what I would like done. But I don't care how many documents are in my office, whether they are orders, or whether they are letters, if they are personal or if they are business related, there is no day that I leave that office that I do not sign all matters that require my attention so far as I can make a determination as to the satisfactoriness of that matter.

There are occasions that I have carried things home. There are occasions when law clerks have brought things to me after that perfoud of time, but the instructions are, as far as I and any member of my staff, work completed, is work out.

Q All right. So how much time passes between your reading an order, accepting that order and the signing of an order on a routine basis.

A On a routine basis, very wlittle if any time passes, long enough for me to, based on what has gone on before that, no matter how limited or how extensive than my law clerks and you must understand that I am a judge who relies very heavily upon my law clerks,

almost immediately upon my understanding what is happening, I sign it.

Q Judge, do you, from your personal knowledge, do you singly rely on your law clerks or is this something that happens with judges?

MR. WEINGARTEN: Excuse me. I'm going to object. Relevancy. It certainly is relevant what Judge Hastings does with his law clerks.

THE COURT: The objection is sustained. Counsel may rephrase the question.

MS. WILLIAMS: I will withdraw that question, Your Honor.

BY MS. WILLIAMS:

Q Judge, it's been pointed out that only the last three pages of the Martino decision deal with the forfeiture aspect. When you read a case, can you just turn to the last three pages and fully comprehend what a case has been talking about,?

A No. If directed to something like that you can be directed to it, but you wouldn't have the gist of every case. The headnotes refer you to specifics inside a case and if you just read that and you took that, sometimes it would be all there is on that particular subject and you might understand it. Other

times it might be related to ongoing things that had happened at other points in the case even though they don't come under the same heading and for that particular reason, going to the last page would not be the best way to try to have a full understanding of something that lawyers have a full understanding about, so they say, when they talk to you.

MS. WILLIAMS: All right. Madam Clerk, may I have the Martino decision.

Q Judge, this is Defendant's Exhibit 41. Would you turn to the first of the last three pages there.

A Yes, ma'am.

Q Judge, let's assume for the moment that when you were handed the Martino decision two minutes before you assumed the Bench on July the 8th that you did, in fact, turn to the forfeiture aspect of that decision and that you began to read the forfeiture provisions as they are printed here in Martino.

Just so the complexity of what is stated in the forfeiture aspect of the Martino decision is clear to the ladies and gentlemen of the jury, would you read for them the first three paragraphs.

That first page on forfeiture, with the Court's permission.

A May I, your Honor?

THE COURT: There is no objection.

MR. WEINGARTEN: May we approach the Bench?

[Sidebar conference between the Court and counsel out of the hearing of the jury as follows:]

MR. WEINGARTEN: I am going to respectfully

object to this procedure as it bears not at all on whether or not the jury thinks it is complicated, it bears on what Judge Hastings thought when he read Martino.

If Judge Hastings is going to say it is too complicated to him, he can testify to that. Whether or not the jury need to hear the first three paragraphs of the forfeiture order to be helped in any way on any issue in this case--

THE COURT: What is the purpose of having him read this?

MS. WILLIAMS: To show, your Honor, that the Government has painted a picture of that he only sits down and reads three pages to understand what to do when he went into the proceedings on July 8th.

The point is to show that that is not true. Even if he read the three pages, it would not have been clear to him exactly what it is he should have done when he went into the proceedings in July and if it would better clarify this, we will have him read the whole three pages.

The point of the matter is what's contained in the last three pages, the jury needs to know what that is so that they can understand that the

picture that is being painted by the Government of this that all he need to do is sit down and read these three pages and know what was happening is not so.

MR. WEINGARTEN: I think he can testify to that. But to read the Martino case itself--

THE COURT: The jury-- they are not expert in the law and--

MS. WILLIAMS: They understand complexity or non-complexity.

THE COURT: The objection is sustained. He can explain it.

[Sidebar conference concluded and the following proceedings were had in open court:]

THE COURT: The objection has been sustained, ladies and gentlemen.

BY MS. WILLIAMS:

Q Judge Hastings, does not the forfeiture aspect of the Martino decision revolve around the meaning of interest?

A Yes, it does and those interests may be property or money and they must be traced and therein lies the complexity.

Q All right. Thank you.

Judge, did you know for a fact that Hemphill Pride was seeking to have his license reinstated from the time he got out of prison up until the present time?

A Yes, that is how I felt that that was what he was trying to do. That's what he led me to believe and I believe that's what he led others to believe.

Q And that is in spite of any South Carolina law?

A In spite of what we now know the law to be. It is what Hemphill was saying and it is how I was acting based on what he was saying.

Q If you knew about the South Carolina law, would you have informed Hempy that you thought it was hopeless for him to seek reinstatement?

MR. WEINGARTEN: Excuse me, Judge Hastings. I respectfully object. It is purely speculative in response to Judge Hastings' answers.

THE COURT: Sustained.

BY MS. WILLIAMS:

Q Judge, did you, at any time, think it was hopeless for Hempy to seek reinstatement of his license?

A Absolutely not. As a matter of fact, I

was as hopeful as he that the words "indefinite" would mean precisely what they said. Indefinite. Indefinite means one day later, one year later or never.

Q Right.

A It depends, but I was hopeful that he would get his licenses back and I am still hopeful that he will.

Q When you create rough drafts of letters while you are on the Bench or while you are sitting at your desk or wherever, do you customarily date them?

A No, I customarily do not date them because in most instances I render them to my secretary for typing on the day that I do it.

Q And the date assigned to the letter is the date on which she types it up in final draft?

A Most assuredly and if these were some kind of fake, I could have easily put a date on them, I guess, if I had wanted to.

Q Judge, are you familiar with the FBI report on those letters?

A Only the rendering that was submitted with reference to their being inconclusive.

Q Was there some rendering in terms of the ink and the date that the ink pre-dates?

A Yes, but I don't have an independent recollection of all of what was said. I just know that when they finished whatever their lab report was, they said it was inconclusive, but I have also spoken with other experts that said that you can narrow it down better than that.

Q Did they not also say that the ink pre-dated 1980?

A Oh, yes, that the ink itself was the ink that would comport with these letters having been written at or around the time that they were written.

Q But they could not give a precise date as to when the letters were written?

A They didn't try, but the best expert in the nation says that he can narrow it down.

Q All right. Now, Judge Hastings, when Joel Hirschhorn was your attorney, did you discuss the existence of these letters with Joel, with Mr. Horsch-horn, pardon me?

A That is that same area. Yes, I discussed these letters. I never gave them to Mr. Hirschhorn for him to be able to give them to the Government before February, but since February, Mr. Weingarten had spoken with Mr. Hirschhorn and knows for a fact that I

spoke with Mr. Hirschhorn about these letters.

Q Thank you, Judge.

Now, in this case, since the February 2nd or whatever the date is, 1982, reciprocal discovery by Joel Hirschhorn, has there been other Rule 16 reciprocal discovery?

A Oh, yes, beginning at the conference with Mr. Weingarten in Andrew Marettes' [phonetic] office on Las Olas Boulevard, we have had other exchanges and we have had exchanges right here in this courtroom and the other court since we have been in progress.

The rule is not finite in the sense that you must do things evidently because both of us have been doing them since that time.

We just have a basic reciprocal responsibility. If we intend to use a certain item of evidence, to offer it to the other party and if you do so well in advance of trial, you have comported, in many respects, with the rule dependent upon the understanding that you have based on the Court's rulings.

Q Judge, in November, when we had reciprocal discovery, the time during which the letters were exchanged, were provided to the Government, were other

documents provided at the same time?

A Yes, other documents were provided us and stipulations were presented by Mr. Weingarten and the volume of those would be not super sensitive like the Landmark Bank records, but, yes, we have had exchanges.

Hastings - redirect

Q That was as extensive as the exchange in February 1982?

A As extensive.

Q Perhaps more extensive?

A Since that time, I think that we have had some exchanges that rival the ones before then, but again not talking about volume, for example, Landmark Bank records are like this (indicating) and the Fort Lauderdale Housing Authority records are three boxes full, so when you talk about discovery in that sense, we have exchanged papers and we have exchanged one or two other items along the way, and we failed to exchange some things as well.

Q All right. Were you under any duty in February, 1982 to exchange your document that you expected to use at trial at that time?

A At that particular time, if we intended to use it, we were in a position of making a determination as to whether or not we were going to give it to them.

Since that time, and before the trial, we are under a compunction under Rule 16 to reciprocally allow that the Government have what we have and we have what the Government has.

Hastings - redirect

Q Judge, there was a question about whether or not you considered calling Mr. Webster of the FBI on October 9th.

A Yes, ma'am.

Q Have you considered calling him since October 9th?

A No.

MR. WEINGARTEN: Excuse me. I'm going to object and ask for a proffer if the question is not withdrawn.

(Sidebar conference between the Court and counsel out of the hearing of the jury as follows:)

MS. WILLIAMS: Judge, I don't have a proffer. I just have a question to get a yes-or-no answer to.

MR. WEINGARTEN: Obviously the question leads to another question.

THE COURT: You are referring to since this indictment?

MS. WILLIAMS: Since October 9, yes.

THE COURT: And has he?

MS. WILLIAMS: No.

MR. WEINGARTEN: It seemed perfectly clear

to me that we were going to get into allegations of Government misconduct. I wanted my objection on the record at this point.

MS. WILLIAMS: Stop being paranoid. I am not heading in that direction.

MR. WEINGARTEN: If the proffer is as stated, the objection is withdrawn.

THE COURT: All right.

MS. WILLIAMS: I might inquire as to whether or not it crossed his mind to call whomever the other person was since the indictment that you referred to earlier during your--

MR. WEINGARTEN: I am not following you.

MS. WILLIAMS: I think you asked whether or not he thought to call somebody else, too.

MR. WEINGARTEN: I just asked Webster.

And the answer is going to be no?

MS. WILLIAMS: Yes.

(Sidebar conference concluded and the following proceedings were had in the presence of the jury:)

THE COURT: The objection has been withdrawn, ladies and gentlemen.

The reporter will read the question back.

(The reporter read the pending question and answer as above-recorded)

MS. WILLIAMS: Thank you.

BY MS. WILLIAMS:

Q Judge, do you recall how it is I went out and called you from a phone booth on October 9th?

A I have no problems recalling that.

Q Well, would you please tell the jury about that?

A Right. You indicated to me that you had to pick your daughter up, and I told you about the urgency of the circumstances and you indicated to me at that time that you would call me while you were out and I was at a pay phone, and I gave youa number and you called me at that number.

MS. WILLIAMS: All right. So it was to be expedient?

A For a variety of reasons, inclusive of the fact I believe you indicated to me that you would call me from a mall, and in addition to calling me from there, you would be able to pick up some things that I had asked you to pick up before my mother asked you to pick anything up.

Hastings - redirect

MS. WILLIAMS: All right. I have no further questions.

Thank you, Your Honor.

THE COURT: Recross.

MR. WEINGARTEN: Yes, Your Honor, very briefly.

RECROSS EXAMINATION

BY MR. WEINGARTEN:

Q First, sir, about the tests that were performed on the letters.

Is it not true that you were advised, and the report so indicates, that the ink on those letters, that there could be no specification about the ink as to whether the letters were produced?

A I think that's true, Mr. Weingarten.

Q And is it fair to say as a result of that that the conclusions of the tests were inconclusive?

A I think that the report reflected that they were inconclusive, but Professor Light of California says that it can be done better than that and it's not--it's a professional argument. Inconclusive is what the FBI laboratory report reflected.

Q Inconclusive in the sense it couldn't be determined if those letters were written in October '81

or October '82?

A I'm not a scientist and I wouldn't profess to say what either of the persons who at the FBI undertook to do what they would do. I thought they could tell us when the Rosetta stone was written and when the shroud was in existence and the Dead Sea Scrolls.

That's my honest opinion. When I gave you the letters, I thought that they could tell us the exact date they were written on.

Q Well, have you ever sat on a case as a Judge or tried a case as a lawyer when efforts were made through expert evidence to date things?

A No, sir. Handwriting analysis, but not dates like that, not in that particular sense.

Q All right. Back to this discovery point.

Is it fair to say that it was immediately evident to you upon return of the Government's indictment in this case that the October 5th, 5:12 p.m. call was going to be fruitful?

A Indeed.

Q And did you know immediately upon hearing that tape which would have been within days of that indictment but whether or not there are letters in this case was to be a critical issue?

A I did.

Q And did you turn over those three letters to the Government on February 16, 1982, when discovery was accomplished?

A No, I did not, because I didn't trust Mr. Hirschhorn.

Q Did Mr. Hirschhorn ever see those letters?

A No, but we had a lengthy discussion about it and I rather resent the fact that you talked with him about that discussion.

Q What did your resentment of Joel Hirschhorn or your distrust of Joel Hirschhorn have to do with your obligation to turn over evidence?

A Mr. Hirschhorn was representing me. Mr. Weingarten, calm down. What did that have to do with anything?

Q What did Mr. Hirschhorn's representation or your suspicion of Mr. Hirschhorn have to do with your obligation to turn over evidence to the Government pursuant to the rules?

A Because I refused to discuss all of the facts of this case with Mr. Hirschhorn because every time I talked with Mr. Hirschhorn, he talked with you.

Q What did that have to do with your obligation under the criminal rules to turn over obviously crucial evidence?

A If we must get into that kind of thing, why did you present us here today with things that we didn't see until you presented them here?

Q And, as you have done, but that I ask to be--

A You see then what we are talking about.

THE COURT: This is becoming argumentative.

THE WITNESS: The rule is breached and honored.

THE COURT: Judge Hastings, please.

You ask a question and you answer the question, sir. This argument is not appropriate.

BY MR. WEINGARTEN:

Q You understand Rule 16?

A I have read Rule 16.

Q And you know what reciprocal discovery is?

A Mr. Weingarten, do you want to go back over it? I didn't give you--

Q Do you understand what Rule 16 is in reciprocal discovery?

A Sure.

Q You know the purpose of it, that is, so evidence can be exchanged between the parties fairly in advance of trial; right or wrong?

A I have no problem with the real purpose if the rule spoke correctly, but the real impact of the rule is to cause the defendant to give you all an opportunity to roll all over them, as you tend to do.

MR. WEINGARTEN: I have no further questions.

THE COURT: Anything further?

MS. WILLIAMS: Nothing further, your Honor.

THE COURT: Well, thank you, Judge Hastings. You may step down.

THE WITNESS: Thank you, your Honor.

[Witness excused.]

THE COURT: Does the defendant have anything further to offer?

MS. WILLIAMS: No, your Honor. The defense rests.

THE COURT: The defense rests?

MS. WILLIAMS: Yes.

THE COURT: Does the Court understand the Government will have rebuttal evidence?

MR. WEINGARTEN: Yes, it will.

THE COURT: Approximately how long would you estimate?

MR. WEINGARTEN: My guess is a half a day. We are prepared to proceed now if the Court would like.

THE COURT: Twenty minutes?

MR. WEINGARTEN: We could start today. We could start tomorrow as the Court sees fit.

[Pause.]

MR. WEINGARTEN: There may be an issue with the first witness. My suggestion is perhaps just start tomorrow morning.

THE COURT: All right.

Well, Madam Forelady, and ladies and gentlemen of the jury, the defendant has now rested. The Government will have some rebuttal evidence to present tomorrow morning.

You have just heard the estimate is half a day. If it is only half a day, you will then be probably excused around lunch break tomorrow because the Court will have to confer with counsel on a number of matters before closing arguments and charge which I now anticipate would be on Wednesday.

In the meantime, have a very pleasant evening and remember not to discuss the case among yourselves.

I am sure you will not.

The jury is then excused until 9:30 tomorrow morning.

[The jury left the courtroom and the following proceedings were had:]

THE COURT: The Court is still in session.

You would estimate that your rebuttal would carry through about the noon recess?

MR. WEINGARTEN: I think--I don't want the Court to hold me to this because we are going to discuss what witnesses are necessary, but that's my best guess.

THE COURT: In that event, the Court will take the afternoon to hear argument and discuss charge and the closing arguments would come on Wednesday morning and the charge when they are completed probably Wednesday afternoon.

Is that agreeable to counsel?

MS. WILLIAMS: That is fine, your Honor.

THE COURT: All right. Fine.

Well, then, have a pleasant evening. The Court will be in recess until 9:30 tomorrow morning.

[At 4:15 p.m., the trial adjourned until Tuesday, February 1, 1983, at 9:30 a.m.]

- - - - -

I N D E X

Witness	Direct	Cross	Red.	Rec.
Alcee L. Hastings [Res.]				
By Mr. Weingarten [Cont]	1999	--	2237	--
By Ms. Williams	--	2060	--	2256

EXHIBITS

DEFENDANT'S	FOR IDEN.	IN EVID.
No. 46		2003
No. 47		2028
No. 48		2030
No. 49		2032
No. 50		2038
No. 51		2048
No. 52		2051
No. 53		2054
No. 54		2055
No. 55		2056
No. 56		2057
GOVERNMENT'S		
No. 34		2074
No. 35		2079
No. 36	2091	2093
No. 37	2200	2202
No. 38	2221	2224

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United States Senate
MPS:RM:sg
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 160

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 42-Hastings

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

APPLICATION

Mark P. Schnapp, Assistant United States Attorney for the Southern District of Florida, being duly sworn, states:

1. I am an investigative or law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code, that is, an attorney authorized by law to prosecute or participate in the prosecution of offenses enumerated in Section 2516 of Title 18, United States Code.

2. Pursuant to Section 2516 of Title 18, United States Code, the Assistant Attorney General in charge of the Criminal Division, United States Department of Justice, the Honorable Stephen S. Trott, having been specially designated by the Attorney General, pursuant to Order Number 1088-85 of March 28, 1985, has approved this application for an order authorizing the interception of wire communications. Attached to this application as Exhibit A is a copy of Order Number 1088-85 of March 28, 1985, specially designating the Assistant Attorney General of the Criminal Division to approve the applications for court orders authorizing interception of wire or oral

EXHIBIT
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HOUSE

communications. Attached as Exhibit B is a copy of the Memorandum of Authorization approving this application.

3. This application is being made in support of the request by the United States of America for a court order authorizing, for a period necessary to achieve the goals of this investigation, but in no event more than thirty (30) days, the interception of wire communications of JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY, and others as yet unknown, concerning offenses enumerated in Title 18, United States Code, Section 2516. In particular, this application seeks authorization for:

A. the interception of wire communications of JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", STEPHEN NAHAY, and others as yet unknown, as to those offenses specified in paragraph 4A(1) below, that is, violations of Title 18, United States Code, Sections 1951, 1962(c) and (d), 1963 and Title 29, United States Code, Section 501(c), over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
JOHN P. TRONOLONE, JR. 2000 Biarritz Drive, Apt. #207 Miami Beach, Florida	(305) 861-1479

B. the interception of wire communications of CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY and others as yet unknown, as to those offenses specified below in paragraph 4A(1), that is, violations of Title 18, United States Code, Sections 1951, 1962(c) and (d),

1963, and Title 29, United States Code, Section 501(c), over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Patricia L. Gordon 20180 N.W. 14 Court Miami, Florida (Residence of KEVIN GORDON)	(305) 653-0724

C. the interception of wire communications of CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY, and others as yet unknown, as to those offenses specified below in paragraph 4A(1), that is, violations of Title 18, United States Code, Sections 1951, 1962(c) and (d), 1963, and Title 29, United States Code, Section 501(c) over the following telephones:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
City of Surfside 9293 Harding Avenue Surfside, Florida	(305) 861-4863 (main number) 861-4864 (subsidiary number) 861-4865 " 861-4866 " 861-5034 "

D. the interception of wire communications of STEPHEN NAHAY, and others as yet unknown, as to those offenses specified below in paragraphs 4A(1) and 4A(2), that is, violations of Title 18, United States Code, Sections 1951, 1952, 1962(c) and (d), 1963, Title 21, United States Code, Sections 841(a)(1), 843(b), 846 and Title 29, United States Code, Section 501(c) over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Dominick Romano 270 N.W. 189th Terrace Miami, Florida (Residence of STEPHEN NAHAY)	(305) 651-5623

E. the interception of wire communications of STEPHEN NAHAY, and others as yet unknown, as to those offenses specified below in paragraphs 4A(1) and 4A(2), that is, violations of Title 18, United States Code, Sections 1951, 1952, 1962(c) and (d), 1963, Title 21, United States Code, Sections 841(a)(1), 843(b), 846, and Title 29, United States Code, Section 501(c) and of KEVIN GORDON, also known as "WAXY", and others as yet unknown, for offenses specified in paragraph 4A(1), that is, violations of Title 18, United States Code, Sections 1951, 1962(c) and (d), 1963, and Title 29, United States Code, Section 501(c), over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Johnny Rivero 4000 N.E. 169th Street Apt. 401 Miami, Florida	(305) 947-0818

4. I have discussed the circumstances of this application and the offenses set forth herein with Special Agent Geoffrey Santini of the Federal Bureau of Investigation, who has directed and conducted the investigation herein, and have examined the Affidavit of Special Agent Geoffrey Santini (attached to this Application as Exhibit C and incorporated by reference herein) which alleges facts to show that:

A. There is probable cause to believe that JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", Douglas Daniel Rago, CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY," STEPHEN NAHAY, and others as yet unknown, have committed, are committing, and are about to commit

the below mentioned offenses enumerated in Title 18, United States Code, Section 2516, to wit:

(1) Specifically, as to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY") and STEPHEN NAHAY, and others as yet unknown:

(a) R.I.C.O. Being associated with an "enterprise" as defined in Section 1961(4) of Title 18, United States Code, that is a group of individuals associated in fact, which enterprise is engaged in, and the activities of which affect, interstate and foreign commerce, comprised of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, and conducting and participating, directly and indirectly, in the conduct of said enterprise's affairs through a pattern of racketeering activity, and conspiring to do so, all in violation of Sections 1962(c) and (d) and 1963 of Title 18, United States Code, said racketeering activity consisting of the following predicate offenses:

(i) Violations of Section 501(c) of Title 29, United States Code, that is, embezzling, stealing, and unlawfully converting the property or other assets of a labor organization;

(ii) Violations of Section 1951 of Title 18, United States Code, that is, obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion or attempts or conspiring to do so in connection with

obtaining employment at the Port of Miami and entry into ILA Local 1922; and

(iii) Acts involving bribery in violation of Florida State Law (Florida Laws §§838.014 et seq.)

(b) Labor Offenses: Violations of Section 501(c) of Title 29, United States Code, by embezzling, stealing and unlawfully converting the property or other assets of a labor organization; and

(c) Hobbs Act Extortion: Violations of Section 1951 of Title 18, United States Code, by obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion, or attempts or conspiring to do so, in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922.

(2) Specifically, as to STEPHEN NAHAY, and others as yet unknown, in addition to those offenses set forth above:

(a) Narcotics Offenses: Violations of Sections 841(a)(1), 843(b) and 846 of Title 21, United States Code, involving the possession with intent to distribute and distribution of controlled substances; the use of communication facilities in committing, causing and facilitating the commission of acts set forth above; and conspiring to commit these offenses; and

(b) Interstate Travel in Aid of Racketeering Enterprises: Violations of Section 1952, of Title 18, United States Code, involving travel or use of facilities in interstate commerce with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of an

unlawful business enterprise involving controlled substances, in violation of Title 21, United States Code, and thereafter performing, or attempting to perform acts, to promote, manage, establish, or carry on, or facilitate the promotion, establishment, or carrying on of said unlawful activity.

(3) Specifically, as to KEVIN GORDON ("WAXY"), and others as yet unknown as to the offenses set forth in this paragraph, although there is probable cause to believe that such offenses are being committed, there is insufficient basis to believe at the present time that the telephone facilities set forth in this application are being used in connection with such offenses:

(a) Hobbs Act Extortion: Violation of Section 1951 of Title 18, United States Code, by obstructing, delaying, or affecting commerce, or the movement of articles or commodities in commerce, by extortion, or attempts or conspiring to do so, in connection with obtaining zoning changes, permits, and licenses.

(b) Extortionate Credit Transactions: Violations of Section 892 of Title 18, United States Code, concerning the extortionate extension of credit by an unknown individual to GORDON.

B. There is probable cause to believe that the telephone facilities listed in paragraph 3 above, have been, are being, and will be used by JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN

NAHAY, and others as yet unknown, 1/ in connection with the commission of offenses described in paragraphs 4A(1) and 4A(2), as indicated in paragraph 3.

C. There is probable cause to believe that particular wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, concerning the above-mentioned offenses will be obtained through the wire interceptions, authorization for which is hereby sought. In particular these wire communications will concern:

(1) As to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, conversations involving illegal labor union activities; unlawful waterfront activities; the prohibited receipt of money or things of value by labor union officers and employees, and persons who purport to control ILA Local 1922; the dates, times, places, amounts and methods of transfer of such illicit payments so received; identification of co-conspirators, and aiders and abettors in causing such illegal payments to be made.

1/ As further detailed herein, there is probable cause to believe that Douglas Daniel Rago has committed, is committing, and is about to commit the offenses enumerated in paragraph 4A, supra; however, there is insufficient basis to believe at the present time that the telephone facilities set forth in this affidavit are being used by Douglas Daniel Rago in connection with such offenses.

(2) As to STEPHEN NAHAY and others as yet unknown, the conversations over telephones (305) 651-5623 and (305) 947-0818 will also include arrangements for, plans for, and payments for, the illegal purchase, sale, distribution, and interstate transportation of controlled substances.

5. The conversations sought to be intercepted are expected to constitute admissible evidence of the commission of the above described offenses.

6. As set forth in detail in the affidavit of Special Agent Geoffrey Santini, normal investigative procedures either have been tried and have failed or reasonably appear to be unlikely to succeed if tried or appear to be too dangerous.

7. No previous application to any judge for authorization to intercept, or for approval of interception of, wire or oral communications, involving JOHN P TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, or the facilities or places specified in this application, is known to the affiant.

8. All wire communications intercepted will be minimized in accordance with Chapter 119 of Title 18, United States Code. Interception will be suspended immediately when it is determined through voice identification, physical surveillance, or otherwise, that none of the named interceptees or any of their confederates, when identified, are participants in the conversation, unless it is determined during the portion of the conversation already overheard, that the conversation is criminal

in nature. Even if one or more of the named interceptees or their confederates, when identified, is a participant in a conversation, monitoring will be suspended if the conversation is not criminal in nature or otherwise related to the offenses under investigation. In connection with the request to intercept telephone conversations at the City of Surfside, it is recognized that many telephone calls either to or from that location may involve legitimate governmental functions. Various measures, such as physical surveillance, voice familiarity, and a review of activity on the Surfside City Hall telephone lines will minimize interceptions of non-relevant conversations.

9. Wherefore, your affiant believes that probable cause exists to believe that JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, are engaged in the commission of the above-enumerated and described offenses set forth in paragraph 4; that these individuals and others as yet unknown have used and are using the above-described telephones in connection with the commission of the above-described offenses, as indicated in paragraph 3; that wire communications of these individuals and others as yet unknown concerning these offenses will be intercepted at the above described telephone facilities and that normal investigative procedures appear unlikely to succeed or appear to be too dangerous.

10. On the basis of the allegations contained in this application and on the basis of the affidavit of Special Agent

Geoffrey Santini attached hereto, the undersigned requests this court to issue an order, pursuant to the power conferred on it by Section 2518 of Title 18, United States Code, authorizing the Federal Bureau of Investigation to intercept wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON, ("WAXY"), STEPHEN NAHAY, and others as yet unknown, to and from the above-described telephone facilities until communications are intercepted which reveal the full and complete manner in which JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, have committed and are committing the above styled offenses and which reveal the identities of each and every confederate, and their places of operation, or for a period of thirty (30) days from the date of this order, whichever is earlier. It is requested that said authorization not automatically terminate when the type of communication described in paragraph 4C, supra, has been first obtained, but shall continue until communications are intercepted which reveal the full and complete manner in which the above-named individuals and others as yet unknown have committed and are committing the aforementioned offenses referred to herein, the identities of the participants and co-conspirators in those offenses, their places of operation, the individual acts committed by aiders and abettors and co-conspirators in those offenses, the extent of participation in those offenses by aiders and abettors and co-conspirators, and the full and complete nature and scope of

the conspiracy involved, or for a period of thirty (30) days from the date of this order, whichever is earlier.

11. It is further requested that this court issue an order pursuant to Section 2518(4) of Title 18, United States Code, directing the Southern Bell Telephone Company of Miami, Florida, a communication common carrier as defined in Section 2510(10) of Title 18, United States Code, to furnish the agents and employees of the Federal Bureau of Investigation, forthwith, all information, facilities and technical assistance necessary to accomplish the interceptions unobtrusively and with a minimum of interference with the services that such carrier is according the persons whose communications are to be intercepted, the furnishing of such facilities or technical assistance by the Southern Bell Telephone Company of Miami, Florida, to be compensated for by the Federal Bureau of Investigation at the prevailing rates, and directing that the Southern Bell Telephone Company, its representatives, agents and employees shall not disclose in any manner, directly or indirectly, to the listed subscriber, nor to any other person, the existence of this or any other order in this matter until ordered to do so by this Court.

12. There are current authorizations to install pen register devices on the telephones set forth in paragraph 3 above to record telephone numbers dialed or pulsed from those telephones. Therefore, to simplify the renewal process of these orders and to make them co-extensive with the time period of the authorization to intercept wire communications over those telephone lines, this application also seeks to supercede the

Court's prior authorizations for such pen registers on those telephone lines and the entry of new orders co-extensive with the interception order herein sought.

13. Pursuant to Federal Rule of Criminal Procedure 57(b), it is requested that this Court authorize the use of devices to register telephone numbers called from the following telephone facilities:

TELEPHONE NUMBERS	SUBSCRIBERS
(305) 861-4863 861-4864 861-4865 861-4866 861-5034	City of Surfisde 9293 Harding Avenue Surfside, Florida
(305) 947-0818	Johnny Rivero 4000 N.E. 169th Street Apt. 401 Miami, Florida
(305) 651-5623	Dominick Romano 270 N.W. 189th Terrace Miami, Florida (Residence of STEVEN NAHAY)
(305) 653-0724	Patricia L. Gordon 20180 N.W. 14 Ct. Miami, Florida (Residence of KEVIN GORDON)
(305) 861-1479	JOHN TRONOLONE, JR. 2000 Biarritz Drive, Apt. 207 Miami Beach, Florida

for a period not to exceed thirty (30) days from the date of the Court Order.

14. It is further requested, pursuant to the All Writs Act, Title 28, United States Code, Section 1651(a), that this Court direct Southern Bell Telephone Company, Miami, Florida, a

communication common carrier (18, United States Code, Section 2510(10)) to forthwith furnish Special Agents of the Federal Bureau of Investigation with all of the information, facilities, and technical assistance necessary to unobtrusively accomplish the installation and use of the devices to register telephone numbers called from the aforesaid numbers.

Respectfully submitted,

STANLEY MARCUS
UNITED STATES ATTORNEY

By: Mark P. Schnapp
MARK P. SCHNAPP
Assistant United States Attorney

Sworn to and ~~subscribed~~ before me this 15 day of July, 1985, at 10:55, (A.M./P.M.) in Miami, Florida.

Peter L. Hoeveler
UNITED STATES DISTRICT JUDGE

Office of the Attorney General
Washington, D. C. 20530

SPECIAL DESIGNATION OF ASSISTANT ATTORNEYS GENERAL
TO AUTHORIZE APPLICATIONS FOR COURT ORDERS FOR
INTERCEPTION OF WIRE AND ORAL
COMMUNICATIONS UNDER CHAPTER 119,
TITLE 18, UNITED STATES CODE

Order No. 1088-85

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 5 U.S.C. 301, and 18 U.S.C. 2516, I hereby specially designate the Assistant Attorney General in charge of the Criminal Division, the Assistant Attorney General in charge of the Tax Division, the Assistant Attorney General in charge of the Office of Legal Counsel, the Assistant Attorney General in charge of the Antitrust Division, and the Assistant Attorney General in charge of the Land and Natural Resources Division, to exercise the power conferred by Section 2516 of Title 18, United States Code, to authorize applications to a Federal judge of competent jurisdiction for orders authorizing the interception of wire or oral communications by the Federal Bureau of Investigation or a Federal agency having responsibility for the investigation of the offense as to which such application is made, when such interception may provide evidence of any of the offenses specified in Section 2516 of Title 18, United States Code.

Provided, that the Assistant Attorney General in charge of the

EXHIBIT A

Tax Division is authorized to exercise the power herein conferred only when the Assistant Attorney General in charge of the Criminal Division is not in the District of Columbia or is otherwise not available. Provided further, that the Assistant Attorney General in charge of the Office of Legal Counsel is authorized to exercise the power conferred only when both the Assistant Attorney General in charge of the Criminal Division and the Assistant Attorney General in charge of the Tax Division are not in the District of Columbia or are otherwise not available. Provided further, that the Assistant Attorney General in charge of the Antitrust Division is authorized to exercise the power herein conferred only when the Assistant Attorney General in charge of the Criminal Division, the Assistant Attorney General in charge of the Tax Division and the Assistant Attorney General in charge of the Office of Legal Counsel are not in the District of Columbia or are otherwise not available. Provided further, that the Assistant Attorney General in charge of the Land and Natural Resources Division is authorized to exercise the power herein conferred only when the Assistant Attorney General in charge of the Criminal Division, the Assistant Attorney General in charge of the Tax Division, the Assistant Attorney General in charge of the Office of Legal Counsel, and the Assistant Attorney General in charge of the Antitrust Division are not in the District of Columbia or are otherwise not available.

Order No. 931-81 of January 19, 1981 and Order No. 934-81 of February 27, 1981 are revoked.

Date: March 28, 1985
5:10 p.m.

Edwin Meese III

EDWIN MEESE III
Attorney General

Memorandum

SST:FDH:T'OL:mkf

Subject: Authorization for Interception Order Application

Date: JUL 11 [illegible]

To: Frederick D. Hess, Director
Office of Enforcement Operations
Criminal Division

From: Stephen S. Trott
Assistant Attorney General
Criminal Division

This is with regard to your recommendation that I, the Assistant Attorney General in charge of the Criminal Division, authorize an application to a federal judge of competent jurisdiction for an order under Title 18, United States Code, Section 2518, authorizing the interception of wire communications for a thirty (30) day period to and from the telephones bearing the numbers (305) 861-1479, subscribed to by John P. Tronolone, Jr. and located at 2000 Biarritz Drive, Apartment 207, Miami Beach, Florida; (305) 653-0724, subscribed to by Patricia L. Cordon and located at 20180 N.W. 14 Court, Miami, Florida; (305) 861-4863, with rotary extensions (305) 861-4864, (305) 861-4865, (305) 861-4866, and (305) 861-5034, subscribed to by the City of Surfside and located at 9293 Harding Avenue, Surfside, Florida; (305) 651-5623, subscribed to by Dominick Romano and located at 270 N.W. 189th Terrace, Miami, Florida; and (305) 947-0818, subscribed to by Johnny Rivero and located at 4000 N.E. 169th Street, Apartment 401, Miami, Florida, in connection with an investigation into possible violations of Title 18, United States Code, Sections 892, 1951, 1952, 1962(c),(d), and 1963, Title 21, United States Code, Sections 841(a)(1), 843(b), and 846, Title 29, United States Code, Section 501(c), and Florida Laws, Section 838.014 et seq., by John P. Tronolone, Jr., a/k/a "Johnny Peanuts," Douglas Daniel Rago, Cornelius J. Vanderwyde, a/k/a "Butch," Kevin Gordon, a/k/a "Waxy," Stephen Nahay, and others as yet unknown.

By virtue of the authority vested in him by Section 2516 of Title 18, United States Code, the Attorney General of the United States has by Order Number 1088-85, dated March 28, 1985, specially designated the Assistant Attorney General in charge of the Criminal Division to authorize applications for court orders

EXHIBIT B

authorizing the interception of wire or oral communications. As the duly appointed Assistant Attorney General in charge of the Criminal Division, this power is exercisable by me. WHEREFORE, acting under this delegated power, I hereby authorize the above-described application to be made by any investigative or law enforcement officer of the United States as defined in Section 2510(7) of Title 18, United States Code. The authorization given is intended to apply not only to the target telephone numbers listed above, but to any changed telephone number subsequently assigned to the same cable, pair, and binding post utilized by the target telephones within the thirty (30) day period.

Stephen S. Trott
Assistant Attorney General
Criminal Division

7/11/85
Date

United States Senate
RM:MPS:sg
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 161

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412-Hastings

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE
INTERCEPTION OF WIRE COMMUNICATIONS/

AFFIDAVIT IN SUPPORT
OF APPLICATION

Geoffrey Santini, being duly sworn, deposes and says:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) assigned to the Miami, Florida, Division. As such, I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516.

2. I have been a Special Agent of the FBI for approximately ten (10) years. I am familiar with the investigative use of pen registers, Title III devices, and consensual recording equipment. I have received training and experience in the investigation of violations of federal law concerning labor unions and public corruption. I have specialized in investigations concerning the waterfront unions, including the International Longshoremen's Association, companies involved in the waterfront industry, and companies involved in shipping, stevedoring, ship supply, ship repair and ship cleaning. Between

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April 1981 and June 1982, I operated an undercover FBI company, involved in ship cleaning and supplies, to investigate waterfront corruption in New Orleans, Louisiana. This investigation involved labor racketeering and corrupt government officials. I have also lectured about waterfront corruption to other FBI agents at the FBI training academy in Quantico, Virginia.

3. I was also assigned to an investigation conducted by the Federal Bureau of Investigation commencing in 1975 under the code name UNIRAC (Union Racketeering). That investigation included an undercover phase involving undercover FBI agents and a confidential source who documented corruption involving union officials in the International Longshoremen's Union (I.L.A.) and waterfront companies in ports along the Eastern seaboard and the Gulf Coast. At the conclusion of the undercover phase, the FBI and Internal Revenue Service audited the I.L.A., including the International Headquarters, District Offices, and individual locals. I personally was involved in the review of I.L.A. records obtained from the New York Headquarters and locals in Mobile, Alabama and New Orleans, Louisiana. Included within the scope of the UNIRAC investigation was an examination of International Longshoremen's Association Local 1922 in Miami, Florida (hereinafter referred to as "ILA Local 1922") and an investigation by agents assigned to the Miami office of the FBI of corruption at the Port of Miami.

4. At the conclusion of the investigation, union officials and executives of waterfront companies were indicted and convicted. In particular, the Miami investigation resulted in an

indictment returned on June 7, 1978 and the conviction in September, 1979, of union officials including George Barone, former president of ILA Local 1922 and James R. Vanderwyde who was office manager of ILA Local 1922. Barone and Vanderwyde were convicted of substantive and conspiracy charges under the Rackeeteer Influenced and Corrupt Organization (RICO) Act, 18 U.S.C. §1961; extortion, 18 U.S.C. §1951; Taft-Hartley violations, 29 U.S.C. §186; and Barone also was convicted of filing false income tax returns, 26 U.S.C. §7206(1). See, United States v. Kopituk, 690 F.2d 1289 (11th Cir. 1982). Barone was sentenced to a total of 15 years imprisonment and fined $10,000; Vanderwyde was sentenced to ten years imprisonment and fined $5,000.

5. I am the case agent in an investigation being conducted by the Miami field office of the FBI into public and union corruption in connection with the Port of Miami. As set forth more fully in the probable cause portion of this affidavit, this investigation has focused, to date, primarily on illegal payments required to be made to union officials, or individuals who allegedly exercise control over ILA Local 1922 at the Port of Miami, to obtain employment at the port. Beginning in March 1985, a confidential source, Johnny Rivero, described more fully herein, attempted, without success, to gain entry into ILA Local 1922. Initially, Rivero contacted CORNELIUS J. VANDERWYDE, also known as "BUTCH", who is the Secretary-Treasurer and Business Agent of Local 1922 and the son of James R. Vanderwyde. Rivero was told that he would not be able to gain entry into the union

or employment at the port. Rivero, however, subsequently met with individuals who claimed that entry could be obtained through unlawful payments. As set forth more fully herein, Rivero has attempted to gain entry through two related avenues. Rivero has met with KEVIN GORDON, also known as "WAXY", a city official in Surfside, Florida, who claims to be able to arrange a payoff to "BUTCH" VANDERWYDE to assist Rivero in gaining entry into the local. Further, Rivero has met with STEPHEN NAHAY, a self-styled "mob" figure, who has placed Rivero in contact with JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", whom NAHAY claims to be an organized crime figure that can exert control over ILA Local 1922. According to NAHAY, George Barone still maintains control over the local although he is currently incarcerated.

6. There is probable cause to believe, as a result of my personal investigation into these matters, including information provided by confidential sources, information furnished to me by other FBI Agents, and other law enforcement investigators, as set forth below, that JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", Douglas Daniel Rago, CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY, and others as yet unknown, have committed, are committing, and are about to commit the below mentioned offenses enumerated in Title 18, United States Code, Section 2516, to wit:

A. Specifically, as to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY") and STEPHEN NAHAY and others as yet unknown:

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(1) R.I.C.O. Being associated with an "enterprise" as defined in Section 1961(4) of Title 18, United States Code, that is, a group of individuals associated in fact, which enterprise is engaged in, and the activities of which affect, interstate and foreign commerce, comprised of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, and conducting and participating, directly and indirectly, in the conduct of said enterprise's affairs through a pattern of racketeering activity, and conspiring to do so, all in violation of Sections 1962(c) and (d) and 1963 of Title 18, United States Code, said racketeering activity consisting of the following predicate offenses:

(a) Violations of Section 501(c) of Title 29, United States Code, that is, embezzling, stealing, and unlawfully converting the property or other assets of a labor organization;

(b) Violations of Section 1951 of Title 18, United States Code, that is, obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion or attempts or conspiring so to do so, in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922; and

(c) Acts involving bribery in violation of Florida State Law (Florida Laws §§838.014 et. seq.)

(2) Labor Offenses: Violations of Section 501(c) of Title 29, United States Code, by embezzling, stealing and unlawfully converting the property or other assets of a labor organization; and

(3) Hobbs Act Extortion: Violations of Section 1951 of Title 18, United States Code, by obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion or attempts or conspiring to do so, in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922.

B. Specifically, as to STEPHEN NAHAY, and others as yet unknown, in addition to those offenses set forth above:

(1) Narcotics Offenses: Violations of Sections 841(a)(1), 843(b) and 846 of Title 21, United States Code, involving the possession with intent to distribute and distribution of controlled substances; the use of communication facilities in committing, causing and facilitating the commission of acts set forth above; and conspiring to commit these above described offenses; and

(2) Interstate Travel in Aid of Racketeering Enterprises: Violations of Section 1952, of Title 18, United States Code, involving travel or use of facilities in interstate commerce with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of an unlawful business enterprise involving controlled substances, in violation of Title 21, United States Code, and thereafter performing, or attempting to perform acts to promote, manage, establish, or carry on, or facilitate the promotion, establishment, or carrying on of said unlawful activity.

C. Specifically, as to KEVIN GORDON ("WAXY"), and others as yet unknown as to the additional offenses set forth in this

paragraph, although there is probable cause to believe that such offenses are being committed, there is insufficient basis to believe at the present time that the telephone facilities set forth in this affidavit are being used in connection with such offenses:

(1) Hobbs Act Extortion: Violations of Section 1951 of Title 18, United States Code, By obstructing, delaying, or affecting commerce, or the movement of articles affecting commerce, by extortion, or attempts or conspiring to do so, in connection with obtaining zoning changes, permits, and licenses.

(2) Extortionate Credit Transactions: Violations of Section 892 of Title 18, United States Code, concerning the extortionate extension of credit by an unknown individual to GORDON.

7. This affidavit is being made in support of the request by the United States of America for a court order authorizing, for a period necessary to achieve the goals of this investigation, but in no event more than thirty (30) days, the following:

A. the interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), STEPHEN NAHAY, and others as yet unknown, as to those offenses set forth in paragraph 6A over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
JOHN P. TRONOLONE, JR. 2000 Biarritz Drive, Apt. #207 Miami Beach, Florida	(305) 861-1479

B. the interception of wire communications of CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, as to those offenses set forth in paragraph 6A over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Patricia L. Gordon 20180 N.W. 14 Court Miami, Florida (Residence of KEVIN GORDON)	(305) 653-0724

C. the interception of wire communications of CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, as to those offenses set forth in paragraph 6A over the following telephones:

SUBSCRIBER & LOCATION	TELEPHONE NUMBERS
City of Surfside 9293 Harding Avenue Surfside, Florida	(305) 861-4863 (main number) 861-4864 (subsidiary number) 861-4865 " 861-4866 " 861-5034 "

D. the interception of wire communications of STEPHEN NAHAY, and others as yet unknown, as to those offenses set forth in paragraphs 6A and 6B over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Dominick Romano 270 N.W. 189th Terrace Miami, Florida (Residence of STEPHEN NAHAY)	(305) 651-5623

E. the interception of wire communications of STEPHEN NAHAY, and others as yet unknown, as to those offenses set forth in paragraphs 6A and 6B and of KEVIN GORDON ("WAXY"), and others

as yet unknown, as to those offenses set forth in paragraph 6A, over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Johnny Rivero 4000 N.E. 169th Street Apt. 401 Miami, Florida	(305) 947-0818

8. There is probable cause to believe that the telephone facilities listed in paragraph 7 above, have been, are being, and will be used by JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, */ in connection with the commission of the above-described offenses enumerated in Title 18, United States Code, Section 2516, as indicated in paragraph 7.

9. There is probable cause to believe that particular wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, concerning the above-mentioned offenses will be obtained through the wire interceptions, authorization for which is herein sought. In particular these wire communications will concern:

*/ As further detailed herein, there is probable cause to believe that Douglas Daniel Rago has committed, is committing, and is about to commit the offenses enumerated in paragraph 6A, supra; however, there is insufficient basis to believe at the present time that the telephone facilities set forth in this affidavit are being used by Douglas Daniel Rago in connection with such offenses.

A. As to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, conversations involving illegal labor union activities; unlawful waterfront activities; the prohibited receipt of money or things of value by labor union officers and employees, and persons who purport to control ILA Local 1922; the dates, times, places, amounts and methods of transfer of such illicit payments so received; identification of co-conspirators, and aiders and abettors in causing such illegal payments to be made.

B. As to STEPHEN NAHAY and others as yet unknown, the conversations over telephone facilities (305) 651-5623 and (305) 947-0818 will also include arrangements for, plans for, and payments for, the illegal purchase, sale, distribution, and interstate transportation of controlled substances.

10. As set forth in detail, infra, normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or appear to be too dangerous.

11. No previous application to any judge for authorization to intercept, or for approval of interception of, wire or oral communications involving JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON (WAXY"), or STEPHEN NAHAY, or the facilities or places specified in this application, is known to the affiant.

CONFIDENTIAL SOURCES

12. In support of this affidavit I have relied, in part, upon information furnished to me by other Special Agents of the FBI, other law enforcement agents, and by two (2) confidential sources, referred to herein as Rivero and CS-2.

A. Source 1: Johnny Rivero has been providing reliable information to the FBI since September 1982. This information has resulted in the indictments and convictions of nine (9) individuals on violations of federal racketeering (RICO) and arson violations. Information provided by Rivero also has resulted in the conviction of one individual on theft charges in New Orleans, Louisiana. The information provided by Rivero and included in this affidavit has been corroborated by surveillance, consensually recorded conversations, and information contained in FBI records as indicated herein. The recordings have been reviewed by FBI agents and summarized. I have either reviewed the recordings or the summaries of the tape recordings. Rivero is expected to testify in any future prosecution resulting from this investigation.

B. Source 2: CS-2 has been providing information to the FBI for approximately ten (10) years. His information has resulted in numerous convictions of ILA officers and employees of the International Longshoremen's Association in the UNIRAC case. CS-2 has been involved in the waterfront industry in Miami, Florida since the mid 1960's. CS-2 has operated various waterfront related companies including steamship agencies,

stevedoring and warehousing services for various steamship lines. In that capacity, CS-2 has dealt with the officers and employee's of the I.L.A. He has provided reliable information to the FBI for over ten years concerning illegal waterfront activities and was one of the witnesses in the UNIRAC trial (United States v. Kopituk) in the Southern District of Florida. Information provided by CS-2 is of historical value or background. Due to CS-2's cooperation and public testimony in the UNIRAC case he is unable to participate in any covert investigation.

ILA LOCAL 1922

13. As a result of my investigation, information supplied to me by other law enforcement agents, and CS-2, I have developed background information as to Local 1922 of the International Longshoremen's Association AFL-CIO.

14. The International Longshoremen's Association (ILA) is a union organization affiliated with the AFL-CIO, with international headquarters located at 17 Battery Place, New York, New York. The ILA has locals in numerous ports, including the Eastern seaboard and Gulf Coast under the overall control of the ILA International in New York. Each individual union local has labor contracts and working agreements with various waterfront companies involved in interstate and international commerce. These individual locals represent various classes of waterfront union employees such as longshoremen, clerks, checkers, samplers, warehousemen, truckers, mechanics, waterboys, and others.

15. The New York Headquarters of the ILA and ILA Local 1922, are required to file reports with the U.S. Department of Labor under the reporting provisions of the Labor Management Reporting and Disclosure Act. The New York International office file number is 000104; ILA Local 1922 file number is 084055.

16. ILA Local 1922, located at 1610 Port Boulevard, Miami, Florida, is comprised of clerks and checkers. A checker is employed by a stevedoring company to monitor the flow of cargo on and off ocean vessels. A clerk is employed by a stevedoring company to monitor cargo in and out of the warehouse or container yards.

17. According to records maintained by the Department of Labor, the officers of ILA Local 1922 are, among others, as follows:

Douglas Daniel Rago	Business Agent
CORNELIUS VANDERWYDE	Secretary Treasurer & Business Agent
Arthur Coffee	President

18. The officers of ILA Local 1922 are directly responsible for their members' employment on the Miami waterfront. These officers are also responsible for contract negotiations with employers involved in the waterfront industry at the Port of Miami.

IDENTITIES OF PERSONS INVOLVED

19. As a result of my investigation, and information supplied to me by other law enforcement officers and witnesses, as set forth below, I have developed background information as to

the identities of several individuals in this investigation, a brief summary of which is set forth below:

A. "JOHNNY PEANUTS" has been identified through records of Southern Bell Telephone Company and the FBI as JOHN P. TRONOLONE, JR., of Miami Beach, Florida, and is the son of John Pasquale Tronolone, Sr. According to FBI records, John Pasquale Tronolone, Sr., is the acting boss of the Cleveland La Cosa Nostra (LCN) organized crime family. He is considered to have significant connections with the Genovese organized crime family in New York and influence over the International Brotherhood of Teamsters Union. On May 31, 1985, " JOHNNY PEANUTS" told Rivero that he was taking over his father's business in South Florida because his father was having heart problems. On June 5, 1985, CS-2 confirmed to affiant that "JOHNNY PEANUTS" is, in fact, JOHN P. TRONOLONE, JR., son of the "mob" figure John Pasquale Tronolone, Sr., who owns Peter Pan Travel Agency on Biscyane Blvd. and 123 Street, Miami, Florida. CS-2 advised that "JOHNNY PEANUTS" has been a member of ILA Local 1922 for many years and is an extremely close associate of DOUGLAS RAGO, described below, who is the Business Agent for ILA Local 1922. On June 10, 1985, CS-2 advised that "JOHNNY PEANUTS" was recently appointed to a "position" in ILA Local 1922 and that "PEANUTS" controls the "bookmaking, shylocking and fencing" operations at the Port of Miami. On June 26, 1985, CS-2 advised that this information was attained from individuals with whom he (CS-2) has daily contact on the Miami waterfront.

B. Douglas Daniel Rago: Business Agent of ILA Local 1922.

According to testimony received in 1981 by the United States Senate Permanent Subcommittee on Investigations, Douglas Rago was described by reliable confidential sources as a member of the Genovese organized crime family of New York since the 1950's. These sources indicated that within the Genovese family hierarchy, Rago was subordinate to family underboss Anthony "Fat Tony" Salerno, but superior to George Barone, who was convicted in UNIRAC. These sources confirmed frequent meetings between Salerno and Rago in order for Rago to receive a portion of the "shakedown money" generated by the Genovese family in the New York/New Jersey area. The sources also stated that in Miami, Rago frequently met with Albert "Chink" Facciano, the Genovese family member who supervised Salerno's "loansharking" operations in South Florida. Facciano is currently serving a 20 year prison sentence for extortionate credit transactions. Anthony "Fat Tony" Salerno was recently indicted in the Southern District of New York for R.I.C.O. violations, extortion, and labor violations. (United States of America v. Anthony Salerno, a/k/a "Fat Tony", Case No. 85-Cr-139 (RO) (S.D.N.Y.)). According to other testimony presented to the Senate Subcommittee by George Wagner (then a relocated Federal witness, who had been employed on the Miami dock and who testified at the Miami UNIRAC trial), George Barone and other ILA officers treated Rago as their superior. Wagner testified that Rago was a member of the Genovese family and that it was apparent from his experience with Local 1922 that Rago was the ranking figure among the Barone group. Further, Wagner testified that Barone rarely appeared in

the port area or at the local office. According to FBI records, George Barone was a former president of ILA Local 1922. Barone was also a former ILA Vice President and a member of the International's Executive Council. Barone was convicted on September 1, 1979, in the Southern District of Florida in the UNIRAC case, of racketeering, racketeering conspiracy, extortion, violations of the income tax laws, and violations of the Taft-Hartley Act. See, United States v. Kopituk, 690 F.2d 1289 (11th Cir. 1982).

C. CORNELIUS "BUTCH" VANDERWYDE: Secretary-Treasurer of ILA Local 1922.

"BUTCH" VANDERWYDE is the son of James Vanderwyde, a former office manager of ILA Local 1922. James Vanderwyde was convicted on September 1, 1979, in the Southern District of Florida in the UNIRAC case, of racketeering, racketeering conspiracy, extortion and violation of the Taft-Hartley Act. "BUTCH" VANDERWYDE was indicted in the UNIRAC case on federal racketeering offenses (18 U.S.C. 1962); extortion (18 U.S.C. 1951); and offenses concerning unlawful payments to labor organizations (29 U.S.C. 186). The charges were severed by the Court and subsequently dismissed by the government. See, United States v. Kopituk, 690 F.2d 1289 (11th Cir. 1982).

D. KEVIN "WAXY" GORDON: Zoning Code Enforcer for the City of Surfside, Florida.

KEVIN GORDON maintains his business office at the City of Surfside City Hall. His business telephone is (305) 861-4863. During this investigation, GORDON has admitted to Rivero that he

is involved in taking illegal payments from building contractors in the City of Surfside. GORDON told Rivero that he had political contacts who can exercise control over VANDERWYDE. On June 6, 1985, a pretext contact was made at the City Hall of the City of Surfside, Florida by an FBI agent. Kathi Ritchey of the Surfside Water & Sewer Department, advised that KEVIN GORDON is the "Code Enforcer" for the City of Surfside. She stated that GORDON's working hours are from 9:00 a.m. until 12:30 p.m., each day and that he can be reaced at telephone number 861-4863. In a number of conversations with Rivero, GORDON describes himself as a Zoning Inspector for the City of Surfside and responsible for approving zoning changes, construction permits, and various license approvals in the city. On June 25, 1985, GORDON advised Rivero that he could obtain zoning or permit requirements in the City of Surfside without any problems.

E. STEPHEN A. NAHAY: In recorded conversations with Rivero, NAHAY describes himself as a member of the "La Cosa Nostra." 1/ NAHAY claims to be from New York, New York, and

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1/ Based on my training and experience in investigating organized crime, my review of numerous reports of other Special Agents of the FBI concerning organized crime activities and my review of testimony of self-acknowledged members of organized crime families, I have concluded that there exists within the United States a secret nation-wide organization known as La Cosa Nostra (LCN) composed of individuals of Italian descent. The LCN engages primiarly in criminal activities including extortion, gambling, loansharking and illegal control of labor unions. The LCN exists solely for the conduct of illegal activities and enforces its decisions through use of force and violence. The LCN has units in various cities in the United States known as families. A family is operated through a structure headed by a
(Footnote Continued)

stated that his uncle is Joe Armone (phonetic), who is also known as Joe "Piney". According to NAHAY, Armone is a "capo" under "Pauli" Castellano. NAHAY identified "Pauli" Castellano as the "boss of bosses." (According to FBI records, Paul Castellano has been the boss of the Gambino family of the LCN in New York. Recently, Castellano was indicted in United States v. Castellano, Case No. 84-Cr 63 (ADS) and United States v. Salerno, Case No. 85-Cr-138 (RO)). NAHAY's criminal record reflects an arrest on May 26, 1953, for assault and battery.

TELEPHONE FACILITIES

20. FBI agents have caused a check to be made of the records of Southern Bell Telephone Company as to the telephone facilites set forth in paragraph 7 above. Southern Bell has provided the subscriber information set forth therein. As to the telephones installed at the City of Surfside City Hall, Southern Bell has advised that they are on a rotary system. KEVIN GORDON ("WAXY") provided Rivero with his work telephone number of (305) 861-4863, which is subscribed to by the City of Surfside and located at City Hall, 9293 Harding Avenue, Surfside, Florida. A rotary system operates as follows: when the primary number, (305)

(Footnote Continued)
"Boss." The Boss is elected by the family. The Boss appoints an "Under-boss," or second in command and a Consiglieri, the advisor of the family. The family also has individuals identified as "Capos" or Captains who supervise the "Soldiers," the lowest members in the family. The Soldiers and Capos give the Boss a percentage of their earnings from the illegal activities. Members of the family are inducted into the family in a formal ceremony. To be inducted into the LCN, one must be of Italian descent and must have done something significant of a criminal nature, such as commit a murder, for the "Family."

861-4863, is already utilized, a telephone call placed to that number is automatically forwarded to the subsidiary lines (305) 861-4864, (305) 861-4865, (305) 861-4866 and (305) 861-5034. Similarly, a person calling from the business telephones subscribed to by the Surfside City Hall can place an out-going telephone call from the primary number or the subsidiary numbers.

PROBABLE CAUSE

21. On March 20, 1985, at 12:40 p.m., Johnny Rivero (source 1) placed a consensually recorded telephone call to ILA Local 1922, at (305) 379-8694, and spoke with "BUTCH" VANDERWYDE. Rivero told VANDERWYDE that he was looking for employment on the waterfront and requested entry into the union rolls of ILA Local 1922. "BUTCH" VANDERWYDE stated that the rolls were closed and that there was no work available at the Port of Miami. VANDERWYDE stated that Local 1922 is currently on a three day work week. VANDERWYDE stated that because Rivero was not a member of the local his chances of obtaining work were "slim and none." Affiant was present at the time Rivero made this telephone call and operated the recording equipment.

22. On March 22, 1985, at approximately 11:45 a.m., in the presence of affiant, Rivero placed a consensually recorded telephone call to ILA Local 1922 at telephone number (305) 379-8694. Rivero spoke with "BUTCH" VANDERWYDE who stated, "Like I told you on the phone the other day, chances are slim and none, my membership is down to three days a week." VANDERWYDE stated, that "we

are not taking any casuals." 2/ VANDERWYDE advised Rivero that he would have to employ members of the local before he could help Rivero. VANDERWYDE told Rivero to call him at the end of the week.

23. On April 23, 1985, in the afternoon, Rivero met an individual named STEPHEN A. NAHAY at Billy's Pub, located at 13720 Biscayne Boulevard, Miami, Florida. Rivero told NAHAY that he was attempting to obtain work on the docks at the Port of Miami. Rivero further stated that he had contacted "BUTCH" VANDERWYDE but that VANDERWYDE had stated that there was no work available.

24. NAHAY then informed Rivero that George Barone is currently incarcerated at Eglin Air Force Base, Florida, and that "BUTCH" VANDERWYDE and other union officials travel at least once a month to meet with Barone. NAHAY stated that Barone is still controlling the union from a jail cell. 3/ NAHAY also stated that Barone was friends with other people in the "Mafia", including Anthony Salerno 4/ from New York. Rivero contacted affiant

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2/ Based upon affiant's experience, a "casual" is a part-time union employee or a union member from another port seeking part-time employment. On June 17, 1985, I confirmed the meaning of the term "casual" with CS-2.

3/ Affiant has learned that Barone has never been incarcerated at Eglin, although he is incarcerated at Lexington, Kentucky. However, NAHAY's statement concerning Barone's continued control of ILA Local 1922 was corroborated by "JOHNNY PEANUTS" on May 31, 1985.

4/ According to FBI records, Anthony "Fat Tony" Salerno is the boss of the Genovese La Cosa Nostra family in New York. Salerno
(Footnote Continued)

during the meeting and related these conversations to affiant. Affiant then went to meet NAHAY and Rivero at Billy's Pub.

25. While still at Billy's Pub, at approximately 7:30 p.m., NAHAY told Rivero, who at this time was accompanied by the affiant, that he had contacts with union officials and various other individuals in the waterfront industry. He also stated that he was an extremely close friend of George Barone (former president of ILA Local 1922). He stated that Barone had been "put in jail" by the FBI. NAHAY then stated that everyone on the waterfront feels that any new individual that tried to obtain work on the waterfront was an FBI agent. The affiant departed Billy's Pub shortly thereafter.

26. On April 24, 1985, Rivero met with NAHAY at NAHAY's residence, located at 270 N.W. 189 Terrace, Miami, Florida. NAHAY and Rivero then departed in Rivero's automobile. During the car ride, in a conversation recorded by Rivero, NAHAY stated that an individual named "JOHNNY PEANUTS" should be able to assist Rivero in obtaining employment with the ILA local. According to NAHAY, "PEANUTS'" father owns the Peter Pan travel agency and is in the "Mafia". 5/ NAHAY further stated that in order for Rivero to obtain work on the docks that "somebody may have to be taken care

(Footnote Continued)
was recently indicted in the Southern District of New York for R.I.C.O., labor violations and Hobbs Act extortion. (United States of America v. Anthony Salerno, Case No. 85-Cr-139-(RO)).

5/ FBI records indicate that John Pasquale Tronolone, Sr. ("PEANUTS'" father) is associated with Peter Pan World Travel, Inc. located at 12155 Biscayne Blvd., Miami, Florida.

of". NAHAY advised Rivero that an individual named "WAXY" (later identified as KEVIN GORDON) has connections with various political figures in Dade County. NAHAY told Rivero that "WAXY" will contact "Coffee", 6/ who will probably in turn contact "BUTCH." NAHAY stated that "WAXY" will attempt to arrange a meeting.

27. NAHAY further told Rivero that his son had been a lieutenant in the police force (unspecified) until he was "caught" with five (5) pounds of cocaine. NAHAY then added that he knows all the "cops" in North Bay Village, including a sergeant, a detective and an individual named Frank De Lamie (phonetic).

28. On April 25, 1985, at approximately 10:10 a.m., at Rivero's residence, located at the Eden Point South Apartments, Apt. #401, 4000 N.E. 169 Street, Miami, Florida, NAHAY, in the presence of Rivero, placed a telephone call to "WAXY" at (305) 861-4863 from Rivero's telephone ((305) 947-0818). Rivero then spoke with "WAXY" and advised "WAXY" that he needed work. Rivero asked if "WAXY" could get him a job on the docks at the Miami waterfront. "WAXY" stated that he would try to reach "Arti" Coffee, President of the ILA Local 1922, and would call Rivero after making some phone calls. "WAXY" then called back Rivero, at telephone number (305) 947-0818, in approximately ten minutes, and stated that Coffee was at a meeting and would be unavailable

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6/ "Coffee" has been identified as Arthur Coffee, a/k/a Arti, who is President of ILA Local 1922 according to records maintained by the Department of Labor.

until after lunch. "WAXY" further stated that he was trying to set up an appointment for Rivero to meet with Coffee.

29. Subsequent to the telephone conversation with "WAXY", Rivero and NAHAY left Rivero's apartment and drove around the Miami area. During the car ride, NAHAY identified individuals whom NAHAY claimed were in the "Mafia".

30. Later on the same day, NAHAY drove Rivero to the Gold Dust Lounge, located at 7700 Biscayne Boulevard, Miami, Florida. While at the Gold Dust Lounge, NAHAY introduced Rivero to "WAXY". Thereafter, "WAXY", NAHAY and Rivero left the Gold Dust Lounge and went to another nearby bar where they could speak in private.

31. During the conversation, "WAXY" advised Rivero that it would cost money to obtain membership in the ILA (the exact amount was not stated). "WAXY" then asked Rivero the identity of the people who wanted to get Rivero into the ILA union. After Rivero advised "WAXY" of the identity of his "people" (It should be noted that NAHAY has on several occassions told Rivero that Rivero's "people" are probably interested in using the ship containers to "run drugs" through the Port of Miami, and that was why Rivero's "people" wanted Rivero on the docks), "WAXY", in the presence of Rivero, placed a telephone call to "Ferguson", identified by "WAXY" as the campaign manager for the Mayor of Dade County. 7/ Rivero overheard "WAXY" say on the telephone that

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7/ Agents of the FBI have verified that Dade County Mayor Steve Clark's campaign manager is Pete Ferguson, at telephone number (305) 371-7678 extension 299. Ferguson is also the Marketing (Footnote Continued)

Rivero "has got the money to pay his way", that Rivero just needs some inside help, that Rivero is from Mississippi, and that he has his union card and that he just needs work. 8/ At the conclusion of the telephone call, "WAXY" told Rivero not to worry because they were going to get Rivero on the docks. Rivero was later debriefed by affiant as to the events of this date.

32. On April 28, 1985, in the late morning, Rivero met with NAHAY at NAHAY's residence, located at 270 N.W. 189th Terrace, Miami, Florida. Rivero and NAHAY then departed NAHAY's residence in Rivero's automobile. During the car ride, Rivero asked NAHAY how "WAXY" was going to handle the cash payment to "BUTCH" VANDERWYDE in order to obtain Rivero's membership in ILA Local 1922. In response, NAHAY stated that "BUTCH" VANDERWYDE and "WAXY" had been friends for a long time and that "WAXY" may go directly to "BUTCH" VANDERWYDE or "WAXY" may make the cash payment to "Ferguson".

33. During the car ride, NAHAY informed Rivero that he could provide Rivero with cocaine. NAHAY stated that an ounce of cocaine would cost approximately $1,200; a gram would cost approximately $80.00; a kilogram of cocaine would cost $32,000; and that a kilogram of heroin would cost $130,000. At this time

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(Footnote Continued)
Director for Fiscal Operations at the Port of Miami. His business office is located in the executive offices of the Port of Miami.

8/ "WAXY" incorrectly stated the fact that Rivero had a union card. Rivero later informed "WAXY" that he did not have a union card but that he wanted to obtain one.

Rivero expressed an interest in purchasing one ounce of cocaine. While riding in the South Miami Beach area, NAHAY pointed out a store which he stated he had robbed about three years ago. NAHAY also referred to several hotels and restaurants were he and "mob guys" ured to "hang out". Rivero met affiant the next morning and related these conversations with NAHAY to affiant.

34. On April 29, 1985, at approximately 11:30 a.m., Rivero picked up NAHAY at NAHAY's residence. Rivero and NAHAY then drove to a gas station in the vicinity of Collins Avenue and 79th Street, Miami Beach, Florida. While at the gas station, Rivero observed NAHAY hand the station employee a handful of $20 bills. In a conversation recorded by Rivero, NAHAY told Rivero that the cash was paid for an unspecified amount of "quaaludes" (methaqualone, a Schedule II controlled substance) to be delivered to him at a later date. This meeting was surveilled by FBI agents.

35. Rivero and NAHAY left the gas station and drove to the Gold Dust Lounge. During the car ride, in a conversation recorded by Rivero, NAHAY stated that he used to be a "shylock" in New York City and admitted to using violence "once or twice" to get money back from the debtors. NAHAY further stated that he had dealt "in dope" when he lived in New York City, and that he still makes a lot of money from it. NAHAY added that he is a "very good friend" of an individual named Bobby Wyler (phonetic) a "hit man" for the mob, "who killed guys in New Orleans." According to NAHAY, "when the mob in New York wanted somebody hit, they sent

him." This conversation in Rivero's automobile was consensually recorded.

36. After Rivero and NAHAY arrived at the Gold Dust Lounge, they went inside and met with "WAXY". In a conversation which was not recorded by Rivero, "WAXY" and NAHAY both told Rivero that "BUTCH" VANDERWYDE, "Ferguson", "WAXY" and NAHAY would each receive a "cut" of the payoff money that Rivero would have to pay to get into ILA Local 1922. At approximately 1:30 p.m., "WAXY" left the Gold Dust Lounge. Rivero remained behind with NAHAY. At approximately 4:15 p.m., Rivero contacted me and I arranged to obtain a tape recorder to place on Rivero which was furnished to Rivero at his apartment. After meeting with affiant to obtain the recorder, Rivero returned to the Gold Dust Lounge, at approximately 5:30 p.m., and again met with NAHAY and "WAXY".

37. At approximately 6:00 p.m., while still at the Gold Dust Lounge, Rivero excused himself from "WAXY" and NAHAY to use the men's room. While Rivero was in the men's room, "WAXY" entered the men's room and proceeded to pat down Rivero by running his hand over Rivero's back and along Rivero's waist in an attempt to determine if Rivero was "wired", i.e., equipped with an electronic listening or recording device. "WAXY" did not discover the concealed recorder.

38. While in the men's room, "WAXY" told Rivero that what Rivero wanted was the "book". "WAXY" told Rivero they would have to pay "BUTCH", if "BUTCH" would take the chance in providing a union book to Rivero. "WAXY" added that Coffee (President of ILA Local 1922) "won't take the chance," but that he ("WAXY") will

call in a favor with "BUTCH". If necessary, "WAXY" stated that he could go to Eddie Koger (phonetic). "WAXY" added that if he called Koger (phonetic), then "BUTCH" would get mad. "WAXY" further stated that Eddie had been "put away for life in jail," but that he still ran things. 9/

39. Rivero and "WAXY" then left the men's room, and returned to the bar area, at which time "WAXY" stated that "it can be done". "WAXY" subsequently stated that "BUTCH" "is the strongest . . . he's the boss", and that "BUTCH" used to be George Barone's "boy". "WAXY" then related that he had asked "BUTCH" VANDERWYDE to get an individual named Logan (phonetic) in the union, and that "BUTCH" had Logan (phonetic) "checked out". "WAXY" added that because Rivero was coming in from the West, Rivero was going to be treated like an agent. "WAXY" stated that he ("WAXY") had to be very careful, and that he had a problem checking out Rivero. They then discussed meeting for lunch on Wednesday (May 1) at the Top Draw Club. "WAXY" then told Rivero to contact him at telephone number (305) 861-4863. The events described in paragraphs 37, 38, and 39 were recorded on the tape recorder provided to Rivero.

40. On May 2, 1985, Rivero placed a consensually recorded telephone call to telephone (305) 861-4863 and spoke with "WAXY".

9/ Based upon affiant's experience, a "book" is a term used to describe a union membership card of ILA Local 1922, which is the property of the union. CS-2 advised the affiant that Koger was a member of the ILA Union from New York who is currently in jail for an unknown offense. CS-2 advised that Koger was close to George Barone.

"WAXY" stated that he had not heard from "Ferguson", but that he would try to get in touch with "Ferguson" and call back Rivero. (According to records of Southern Bell Telephone Company, telephone (305) 861-4863 is located at City of Surfside City Hall, 9293 Harding Avenue, Surfside, Florida.)

41. On May 3, 1985, Rivero met with NAHAY at NAHAY's residence. NAHAY and Rivero then departed in Rivero's automobile. During the car ride, NAHAY stated that "WAXY" was having difficulty getting Rivero into the union through "BUTCH" VANDERWYDE because there are approximately 300 to 400 of the current members out of work. NAHAY added that "WAXY" was currently dealing through Al Gonzalez 10/. "WAXY" indicated to NAHAY that Gonzalez is extremely powerful and connected with the "mob". This conversation in Rivero's automobile was recorded by Rivero.

42. On May 3, 1985, Rivero went to "Happy's Bar", located at 1872 North Bay Causeway, North Bay Village, with NAHAY. While there, NAHAY met with a sergeant of the North Bay Village Police Department. NAHAY gave the officer a license plate number to check. NAHAY stated that he had observed the car by his residence. Rivero observed the officer make a telephone call and return. The officer then advised NAHAY that there was no record in the motor vehicle file. He further told NAHAY that the

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10/ Alvarez Gonzalez, is the president of the Hotel Employees and Restaurant Employees Union, Local 355, Miami, Florida, Department of Labor ID #071083.

vehicle may a police or FBI car watching NAHAY or Dominick Romano, NAHAY's roommate.

43. On May 7, 1985, at approximately 9:22 a.m., Rivero placed a consensually recorded telephone call to "WAXY" at the City of Surfside City Hall, telephone number (305) 861-4863. During this conversation "WAXY" stated that he would try to contact "Ferguson".

44. On May 7, 1985, at approximately 10.35 a.m., Rivero placed a consensually recorded telephone call to "WAXY" at the City of Surfside City Hall, telephone number (305) 861-4863. During the conversation, "WAXY" stated that he had contacted Gonzalez and that Gonzalez told "WAXY" that his connection was out of town.

45. On May 9, 1985, at approximately 9:00 a.m., Rivero placed a consensually recorded telephone call to NAHAY at (305) 651-5623. 11/ During the conversation NAHAY mentioned that he was going to set up a narcotics transaction. Rivero asked NAHAY how much money to bring with him (for the ounce of cocaine).

46. On May 9, 1985, at approximately 10:00 a.m., Rivero placed a consensually recorded telephone call to NAHAY at his residence on telephone number (305) 651-5623. Rivero told NAHAY that he was going to take him ("WAXY") to lunch. Rivero asked NAHAY if NAHAY gave "WAXY" any "figures". NAHAY responded in the

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11/ Telephone number (305) 651-5623 is a telephone listed at 270 N.W. 189th Terrace where NAHAY was residing. Southern Bell telephone records indicate that the telephone is subscribed to by Dominick Romano.

affirmative and told Rivero that "WAXY" is dealing with the "main guy."

47. On May 10, 1985, at approximately 9:00 a.m., Rivero met with NAHAY at NAHAY's residence, 270 N.W. 189th Terrace. Rivero and NAHAY then departed in Rivero's automobile and drove to a Chevron gasoline station located at 79th Street and Abbot Street, Miami Beach, Florida. While there, NAHAY met with a white male, described by NAHAY as the station's owner. NAHAY and the station owner met at the rear of the station outside the presence of Rivero. Shortly thereafter, NAHAY returned to Rivero and then both returned to Rivero's automobile. Once at the automobile, NAHAY handed a brown envelope, letter size and folded, to Rivero. NAHAY told Rivero that the envelope contained forty "quaaludes" and instructed Rivero to place the envelope in the car's trunk. At the end of the afternoon NAHAY removed this envelope containing the alleged drugs from the trunk of Rivero's vehicle.

48. Rivero and NAHAY then departed the gasoline station and drove to the Gold Dust Lounge. Shortly after arriving at the Gold Dust Lounge, "WAXY" arrived and met with Rivero and NAHAY. "WAXY" then told Rivero to place a telephone call to "BUTCH" VANDERWYDE to make a luncheon appointment for May 13, 1985. According to "WAXY" the reason for the meeting was for "WAXY" to ask "BUTCH" VANDERWYDE how much money was necessary to obtain membership in ILA Local 1922 and a union card. The events of this meeting were related to Special Agent Robert Kelly by Rivero. The meetings were surveilled by FBI agents.

49. On May 13, 1985, at approximately 8:50 a.m., Rivero placed a consensually recorded telephone call to "BUTCH" VANDERWYDE at (305) 379-8694. Rivero told VANDERWYDE that he was having lunch with KEVIN GORDON ("WAXY") and invited "BUTCH" VANDERWYDE to lunch. VANDERWYDE indicated that he didn't know the names "KEVIN GORDON" or "WAXY", but that in any event he couldn't make the luncheon as he was travelling to Port Everglades for the day. 12/

50. On May 13, 1985, at approximately 12:00 noon, Rivero met with "WAXY" GORDON at the Top Draw Club, 1850 North Bay Causeway, North Bay Village, Florida. While sitting at the bar with Rivero, an unknown individual approached "WAXY" and stated "He's giving me a rash of shit about zoning". "WAXY" replied, "Don't worry about it, it's already taken care of." During the exchange, the unknown individual handed a small brown envelope along the bar counter to "WAXY". The envelope measured about three to five inches and appeared to Rivero as if it contained money. "WAXY" picked up the brown envelope and put it in his shirt pocket. The unknown individual then departed. Rivero and "WAXY" then had a conversation wherein "WAXY" told Rivero that NAHAY is from New York and is a "bad" individual. "WAXY" also stated that he would call "BUTCH" VANDERWYDE on May 14, 1985. A second unknown individual then came to the bar and started

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12/ VANDERWYDE later acknowledged his acquaintance with "WAXY" GORDON. Based upon my review of the recorded conversation, VANDERWYDE appeared cautious.

talking to "WAXY". Rivero was also present during this conversation. This individual told "WAXY" that a "plumber" came out to the apartment complex construction site and shut down the entire apartment construction operation. "WAXY" then told this individual that he had spoken to the building inspector concerning the shut down. "WAXY" told this unknown individual, "Don't worry about it, it's taken care of, it's done." This unknown individual then passed a three by five inch brown envelope to "WAXY". According to Rivero, the envelope was thick and appeared to contain money. "WAXY" took the brown envelope and placed it in his shirt pocket. As "WAXY" took the brown envelope, the unknown individual stated to "WAXY" that "this is for taking care of the problem." The unknown person then departed. Agents on surveillance observed a red Volkswagen Rabbit automobile, license EUP 101, which is known to be driven by KEVIN GORDON ("WAXY"), parked in the lot outside the Top Draw Club. According to Florida Motor Vehicle records this car is registered to Patricia Gordon, 20180 N.W. 14th Court. Agents observed Rivero park next to that vehicle and enter the Top Draw Club.

51. At approximately 2:15 p.m., Rivero departed the Top Draw Club and drove to the Gold Dust Lounge where he met with NAHAY. When Rivero walked into the Gold Dust Lounge, NAHAY was in the process of negotiating a purchase of cocaine through the barmaid. NAHAY then told Rivero that he was also negotiating the purchase of an ounce of cocaine from another individual named Gilbert (phonetic). The conversations of May 13, 1985 were later related to affiant and Special Agent Robert Kelly.

52. On May 15, 1985, at approximately 9:35 a.m., "WAXY" GORDON placed a telephone call to Rivero at Rivero's residence, telephone number (305) 947-0818. During this conversation, which was consensually recorded by Rivero, "WAXY" told Rivero that "BUTCH" won't be in his office until 10:00 a.m., and that he would continue to try to call VANDERWYDE.

53. On May 15, 1985, at approximately 10:40 a.m., Rivero placed a consensually recorded telephone conversation to "WAXY" GORDON at (305) 861-4863. During this conversation Rivero inquired whether "BUTCH" knew "WAXY" since "BUTCH" had stated that he didn't know "WAXY" when he (Rivero) had spoken with "BUTCH" on May 13, 1985. "WAXY" responded that "BUTCH" probably didn't want to say anything to Rivero.

54. On May 16, 1985, NAHAY called Rivero at Rivero's residence, telephone number (305) 947-0818. During this conversation, which was consensually recorded by Rivero, NAHAY explained to Rivero that the drug deal was not consummated because the quantity was too small. NAHAY agreed to make arrangements for a future drug deal.

55. On May 24, 1985, at approximately 12:45 p.m., Rivero met "WAXY" GORDON at the Gold Dust Lounge. "WAXY" told Rivero that he was angry because an unnamed individual who was supposed to deliver an envelope containing money, at a corner adjacent to the City of Surfside City Hall, did not arrive as anticipated. "WAXY" stated that he would call the individual and tell him to deliver the money at his home. "WAXY" advised that he would apply political pressure on the individual if the payment was not

made. "WAXY" told Rivero that he spoke with "BUTCH" VANDERWYDE to assist Rivero to get into the union. According to "WAXY", "BUTCH" stated that a substantial payment would have to be made to get Rivero into the union. This meeting was related to affiant and Special Agent Robert Kelly by Rivero the next day.

56. On May 24, 1985, at approximately 3:30 p.m., Rivero drove NAHAY to "Happy's Bar", located at 1872 North Bay Causeway, North Bay Village. In a recorded conversation, NAHAY advised Rivero that "JOHNNY PEANUTS" (JOHN P. TRONOLONE, JR.) could get Rivero into the union. NAHAY told Rivero that "Brian Prago" (which was clarified to be DOUGLAS RAGO) was the boss. 13/ NAHAY told Rivero that Rago got "JOHNNY PEANUTS" into the union. According to NAHAY, if Rago tells "BUTCH" VANDERWYDE that he wants a "book," Rago will get it immediately. Rivero told NAHAY that "WAXY" was unsuccessful in helping him get into the union. NAHAY advised Rivero to get "close" to "JOHNNY PEANUTS" because "PEANUTS" has connections. NAHAY also advised Rivero that the cost of heroin was $160,000 per kilogram and that he (NAHAY) would be travelling to New York to transport narcotics. During the conversation, NAHAY told Rivero that he knew "Fat Tony" Salerno (Anthony Salerno) who controlled all the "banks" (bookmaking operations) in New York, but that Salerno had been

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13/ In later conversations NAHAY refers to Rago. FBI indices do not have any record of a "Brian Prago" associated with the waterfront. CS-2 indicated that he is not familiar with any individual named "Prago" on the Miami waterfront, although he is familiar with DOUGLAS RAGO's control over the Miami docks.

arrested on R.I.C.O. charges. Affiant has verified that Anthony Salerno was indicted in New York (United States of America v. Anthony Salerno, Case No. 85-Cr-139(RO)).

57. On May 24, 1985, Rivero placed a consensually recorded telephone call in affiant's presence to NAHAY at telephone number (305) 651-5623. NAHAY advised Rivero that Bill Coriel (phonetic) didn't want to do business (the cocaine deal). NAHAY advised Rivero that Rago is with the "mob" and that Rago makes the decision who gets into the union. NAHAY further advised Rivero that "usually for money [RAGO] says yes." NAHAY told Rivero that he had called "JOHNNY PEANUTS" and that "JOHNNY PEANUTS" would have to be paid. According to NAHAY, "PEANUTS" would make the connections. NAHAY advised Rivero that "JOHNNY PEANUTS" told him that Rivero should not have approached "BUTCH" VANDERWYDE, but should have come directly to "JOHNNY PEANUTS". NAHAY advised Rivero that "JOHNNY PEANUTS" would call him (NAHAY) later that day. Rivero asked NAHAY if they could trust Rago. NAHAY assured Rivero that Rago was associated with Anthony "Fat Tony" Salerno from Harlem. NAHAY advised Rivero that "New York" controls the docks in Miami.

58. On May 24, 1985, at 4:00 p.m., Rivero and NAHAY arrived at "Happy's Bar". While there, NAHAY introduced Rivero to "The Barber", a white male, approximately 47 years old, 5'7", 130 lbs, with short dark hair. NAHAY told Rivero that the "The Barber" dealt in cocaine and heroin. NAHAY told "The Barber" that he wanted to buy one ounce of cocaine (which was to be sold to Rivero) and six kilograms of heroin which NAHAY would transport

to New York City in June. In Rivero's presence, "The Barber", made a telephone call to arrange the purchase of the cocaine. Approximately forty-five minutes later a white female arrived at which time "The Barber" advised Rivero that she had the cocaine in her car. Rivero called the FBI office in Miami and spoke with Supervisory Special Agent Christopher Mazzella who instructed Rivero to delay the purchase. Rivero then advised "The Barber" that he couldn't get the money immediately. NAHAY further discussed transporting heroin to New York to sell it there. "The Barber" told NAHAY and Rivero that he sold cocaine to North Bay Village police officers. Rivero advised affiant and Special Agent Robert Kelly of these events the next day.

59. On May 25, 1985, Rivero placed a consensually recorded telephone call in affiant's presence to NAHAY at telephone number (305) 651-5623. NAHAY advised Rivero that his phone had been "ringing" since 6:30 p.m. Rivero advised NAHAY that he could pick up the money from "the guy" (for the cocaine). NAHAY said that he was waiting for a call from his source. NAHAY advised Rivero that the price would be approximately $1,100. Rivero advised NAHAY that he would receive $1,400 and that they would split the $300 profit.

60. On May 27, 1985, at approximately 9:30 a.m., NAHAY met with Rivero at Rivero's apartment. NAHAY used Rivero's telephone, (305) 947-0818, to call "Marla" at the Gold Dust Lounge. NAHAY left a message for "Marla". At approximately 11:00 a.m., "Marla" called NAHAY at Rivero's apartment (telephone number (305) 947-0818). Rivero spoke with "Marla" to arrange a

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meeting to consummate the sale of cocaine. The meeting was set for 12:00 p.m. at the "Big Daddy's" parking lot at 163rd Street and Biscayne Blvd., North Miami Beach. After the meeting, Rivero advised affiant of the conversations with NAHAY.

61. On May 27, 1985, at approximately 11:55 a.m., NAHAY and Rivero met in the "Big Daddy's" parking lot. In a recorded conversation, NAHAY advised Rivero that large drug deals were easier. Rivero gave NAHAY $750 in cash of which $675 was to be used to purchase the cocaine. NAHAY then left Rivero's car to make a telephone call. Shortly thereafter, a white female arrived in a maroon and grey Dodge automobile at the parking lot. NAHAY entered her car and drove around the area. Approximately fifteen minutes later, they returned to the parking lot at which time NAHAY left her vehicle and returned to Rivero's car. In a recorded conversation, NAHAY handed Rivero a quantity of cocaine. NAHAY advised Rivero that she checked out Rivero and that Rivero was "O.K.". FBI agents on surveillance observed the meeting. Rivero later gave the cocaine to the affiant, who delivered it to the Drug Enforcement Administration laboratory. The substance was tested at the laboratory and was found to be 12.8 grams of cocaine that was 58% pure.

62. On May 28, 1985, at 10:15 a.m., in the presence of Special Agent Robert Kelly, Rivero recorded an incoming telephone call from KEVIN "WAXY" GORDON. Rivero was at home at telephone number (305) 947-0818. "WAXY" told Rivero that "BUTCH" wanted "WAXY" to call him on Thursday. "WAXY" advised Rivero that he

("WAXY") had to meet the "shylock" at the Tin Lizzie restaurant in North Miami.

63. On May 28, 1985, at 10:50 a.m., Rivero placed a consensually recorded telephone call in the presence of Special Agent Robert Kelly to "BUTCH" VANDERWYDE at telephone number (305) 379-8694. VANDERWYDE advised Rivero that "WAXY" had called and told Rivero that he would meet with Rivero on Thursday.

64. On May 28, 1985, at approximately 12:25 p.m., Rivero met with "WAXY" and an unknown male at the Tin Lizzie restaurant, located 12500 Biscayne Blvd., North Miami. In a consensually recorded conversation, "WAXY" told Rivero that the individual he had just met with at the bar was a "runner" for the "shylock". 14/ "WAXY" stated that "the shylock is from Chicago, and the price isn't too bad, just 3 points a week." "WAXY" stated that the price previously had been as high as 5 points a week in Miami. "WAXY" told Rivero that he had been in an accident in a City of Miami car and had paid a witness not to testify against him. "WAXY" told Rivero that he had borrowed money from the "shylock" to pay the witness. "WAXY" stated that he paid the witness about $3,000.00 and sent the witness to North Carolina so he couldn't be served with a subpoena. "WAXY" also stated that when he spoke with "BUTCH" VANDERWYDE, he never mentioned any "numbers". "WAXY" stated that "BUTCH" VANDERWYDE will write the

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14/ Based on affiant's experience, a "shylock" engages in illegal credit transactions and uses force or violence to collect usurious interest payments.

amount on a piece of paper when they met. "WAXY" advised Rivero that when he meets "JOHNNY PEANUTS," Rivero would have to be "naked" so that they could check him out (for tape recording equipment). "WAXY" advised Rivero that he knew "JOHNNY PEANUTS", who was identified by "WAXY" as JOHN TRONOLONE. "WAXY" stated that TRONOLONE's father was a "bookmaker" and "shylock". This meeting was photographed and surveilled by FBI Agents.

65. On May 29, 1985, at approximately 9:25 a.m., Rivero placed a consensually recorded telephone call to NAHAY at his residence, telephone number (305) 651-5623. Rivero advised NAHAY that he (Rivero) spoke with "WAXY" yesterday (May 28, 1985) at which time "WAXY" wanted them (NAHAY and Rivero) to clarify the "figure" to give "BUTCH". Rivero further advised NAHAY that he was informed by "WAXY" that NAHAY had told "WAXY" that the price would be "5" for "BUTCH" VANDERWYDE, "3" for "WAXY" and "3" for "us" (NAHAY and Rivero). 15/ (I have reason to believe that these numbers represent thousands of dollars.) Rivero asked about "the other end" ("JOHNNY PEANUTS"). NAHAY told Rivero that if things didn't work out with "WAXY" they would go with Rago. NAHAY advised Rivero that "JOHNNY PEANUTS" called him the previous day at 3:00 p.m., at which time "PEANUTS" told NAHAY not to worry because he ("PEANUTS") would contact Rago, who was George Barone's superior.

15/ The parties intended to increase the pay-off figure so as to give Rivero a cut of what Rivero's backers were to pay.

66. On May 30, 1985, at approximately 4:22 p.m., Rivero placed a consensually recorded telephone call to NAHAY, at telephone number (305) 651-5623. Rivero advised NAHAY that he wanted to work through Rago rather than "WAXY". NAHAY stated that "PEANUTS'"s father knows the "boss" (RAGO).

67. On May 31, 1985, at approximately 1:30 a.m., NAHAY called Rivero at Rivero's home. In a recorded conversation, NAHAY told Rivero to come to a meeting immediately at the Top Draw Club. NAHAY told Rivero that "JOHNNY PEANUTS" had agreed to meet with Rivero. NAHAY said that "he ("PEANUTS") does it this way, that's why he don't get caught". NAHAY said he can "get you on" but "we're talking big bucks." NAHAY told Rivero that Cubans want to pay $50,000 to get on the pier. According to NAHAY, "PEANUTS" told (NAHAY) that "WAXY" was a "nice guy" but that "PEANUTS" would get it done. NAHAY told Rivero that it would cost one - half the amount that the Cubans pay.

68. At approximately 2:00 a.m., Rivero entered the Top Draw Club and was introduced to "PEANUTS" who thereafter began questioning Rivero as to his reasons for wanting to join the ILA. "PEANUTS" also patted down Rivero for possible recording equipment in the presence of three police officers from the North Bay Village, Florida police department. (It should be noted that NAHAY had previously confided in Rivero that many members of this police department were on the payroll of organized crime members). "PEANUTS" thereafter reiterated the ILA's apprehension of the FBI and accused Rivero of being a "cop". Nevertheless, Rivero continued to provide background as to his identity and

NAHAY gave his personal recommendation to "PEANUTS" as to Rivero's credibility. Rivero and "PEANUTS" then continued in conversation on a wide variety of topics concerning the ILA union and "PEANUTS'" father's activities in South Florida. "PEANUTS" stated that he was taking over his father's business in South Florida, that his father was having heart problems. "PEANUTS" stated that DOUGLAS RAGO was the main official controlling overall ILA union activities in South Florida. "PEANUTS" stated that George Barone controls "BUTCH" VANDERWYDE and "Arti" Coffee (ILA Local 1922 officers) from his jail cell.

69. "PEANUTS" indicated that in order for Rivero to join the ILA, a payment of $25,000 would have to be made to himself and DOUGLAS RAGO. "PEANUTS" added that this payment would not assure Rivero of full time work on the docks and that Rivero could only expect two or three days of work each week. "PEANUTS" stated that the ILA allowed Cubans to join the union when business was brisk in the Port of Miami a number of years ago. These individuals were paid the minimum wage. However, in reality, waterfront companies paid the true union scale and the gang leaders (headers) held out the remainder of these funds for themselves and the union officials. "PEANUTS" stated that the ILA is moving these people off the Miami docks and elsewhere and replacing them with their "own" people whom they can trust. NAHAY also added that he and "WAXY" demanded $5,000 from Rivero as payment for assisting Rivero.

70. "PEANUTS" provided NAHAY with his telephone number. NAHAY advised Rivero to contact his (Rivero's) group to determine

if they would pay the $25,000. Rivero was told to call NAHAY or "PEANUTS" in two or three days with an answer. I was on surveillance outside the Top Draw Club from approximately 1:50 a.m. to 2:25 a.m. in the morning of May 31, 1985. During this period, I observed Rivero enter the Top Draw Club, and also observed a 1976 black Ford Torino automobile, Florida license ILE 613, parked outside the restaurant. This vehicle is registered to STEPHEN NAHAY according to records at the Florida Department of Motor Vehicles. After the meeting, Rivero called me and advised me of the conversations set forth in paragraphs 67-70. (In a detailed debriefing by affiant of Rivero which took place at approximately 7:30 a.m. on May 31, 1985, Rivero provided a physical description of "JOHNNY PEANUTS". Rivero later identified a photograph as depicting "JOHNNY PEANUTS". The photograph identified by Rivero was a photograph of JOHN P. TRONOLONE, JR. The physical description provided by Rivero also matched the physical description of JOHN P. TRONOLONE, JR.)

71. On May 31, 1985, at approximately 11:10 a.m., Rivero placed a consensually recorded call to "WAXY", at the City of Surfside City Hall, telephone (305) 861-4863. Rivero advised "WAXY" that he met with "JOHNNY PEANUTS" to get him into the union. "WAXY" told Rivero that "PEANUTS" was "the main mover down here." "WAXY" asked Rivero for the "price tag". Rivero told "WAXY" "25 big ones."

72. On May 31, 1985, at approximately 11:40 a.m., Rivero placed a consensually recorded call to NAHAY's residence at (305) 651-5623. NAHAY advised Rivero that "JOHNNY PEANUTS" is "pretty

big." NAHAY gave Rivero "PEANUTS'" telephone number which he received from Johnny "PEANUTS" at the Top Draw Club. The telephone number is (305) 861-1479 which, according to Southern Bell telephone records, is subscribed to by JOHN TRONOLONE, JR. at 200 Biarritz Drive, Miami Beach, Florida. NAHAY told Rivero "we got to get it on with the money." Rivero told NAHAY to confirm the amount of money that had to be paid.

73. On June 4, 1985, NAHAY met with Rivero at the Rum Runner Lounge, 17201 Biscayne Boulevard, North Miami Beach. NAHAY told Rivero that he (NAHAY) had a recent conversation with "PEANUTS" (JOHNNY TRONOLONE JR.) at which time "PEANUTS" told NAHAY that when Rivero returns to Miami, after conferring with his superiors, a meeting will occur between NAHAY, "PEANUTS", Rago, RAGO's bodyguards and Rivero. During this meeting, Rivero will be searched by RAGO's bodyguards for recording equipment. Thereafter Rivero will be required to furnish details as to why he wants employment on the Miami docks in lieu of another port. Rago will assess this information and make a determination whether or not to take the payment and offer Rivero entry into the ILA union. NAHAY further told Rivero that he (NAHAY) was told by "PEANUTS" that this meeting will be set up at the last minute at an undisclosed location where Rago will be secluded and where "PEANUTS" will then bring NAHAY and Rivero. Affiant was contacted by Rivero during the meeting and advised of the aforementioned conversations.

74. On June 4, 1985, at approximately 12:20 p.m., NAHAY met with Rivero. In a recorded conversation, NAHAY advised Rivero

that he (NAHAY) is "Cosa Nostra", and that his uncle Joe Armone (phonetic), who is also known as "Joe Piney", is a "capo" under "Pauli" Castellano. NAHAY identified "Pauli" Castellano as the "boss of bosses". 16/ NAHAY stated that his uncle was also under Anthony Dellacroce (affiant believes that the reference to Anthony Dellacroce is in fact to Aniello Dellacroce, former underboss of the Gambino LCN family in New York City). NAHAY told Rivero that he would introduce Rivero to Joe Armone (phonetic) in New York.

75. On June 4, 1985, in mid - afternoon, Rivero met with "WAXY" at the Gold Dust Lounge at 77th Street and Biscayne Boulevard. "WAXY" told Rivero that he ran into "BUTCH" VANDERWYDE at the Top Draw Club at approximately 1:00 p.m. and spoke briefly about getting a union card for Rivero. "WAXY" told Rivero that he wrote Rivero's name on a piece of paper with the figure 5k and his name, KEVIN GORDON. "BUTCH" VANDERWYDE read the note, placed it in his shirt pocket, and told "WAXY" to call him ("BUTCH" VANDERWYDE) at his office the next day. This conversation was related by Rivero to Special Agent Robert Kelly.

76. On June 5, 1985, at approximately 9:30 p.m., "WAXY" called Rivero at home. "WAXY" said he was calling from his home. "WAXY" told Rivero that he was trying to call "BUTCH" regarding the note. This conversation was related by Rivero to Special Agent Robert Kelly.

16/ According to FBI records, Paul Casetellano has been the boss
(Footnote Continued)

77. On June 5, 1985, at approximately 10:43 a.m., Rivero placed a consensually recorded call to NAHAY at (305) 651-5623. Rivero advised NAHAY that "WAXY" called Rivero and is still working on "it". NAHAY told Rivero, "you know why he is still interested?" Rivero said "yeah, money".

78. On June 6, 1985, at approximately 11:30 a.m., Rivero placed a consensually recorded call in the presence of Special Agent Robert Kelly to "WAXY" at "WAXY"'s residence, telephone number (305) 653-0724. 17/ The telephone was answered by a female known to Rivero as the wife of KEVIN GORDON, who said that "KEVIN" will be back in a couple of minutes.

79. On June 6, 1985, at approximately 11:50 a.m., Rivero received a telephone call in the presence of Special Agent Robert Kelly from "WAXY" and recorded the conversation. "WAXY" agreed to meet Rivero at the Top Draw Club. "WAXY" advised Rivero that he was unable to reach "BUTCH" VANDERWYDE.

80. On June 6, 1985, at approximately 11:55 a.m., "WAXY" called Rivero at his residence. 18/ Special Agent Robert Kelly was present during this conversation. In a recorded

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(Footnote Continued)
of the Gambino family of the LCN in New York. Castellano is currently under federal indictment for racketeering, labor and Hobbs Act extortion charges.

17/ Telephone number (305) 653-0724 is subscribed to by Patricia L. Gordon, at 20180 N.W. 14th Ct., North Miami Beach, Florida.

18/ Affiant believes that "WAXY" GORDON placed these telephone calls on June 6, 1985, from his residence telephone number (305) 653-0724. These telephone calls followed shortly after the telephone call from Rivero to "Waxy"'s residence at 11:30 a.m.

conversation, "WAXY" stated that there was to be no meeting with "BUTCH" VANDERWYDE at the Top Draw Club; "BUTCH" would not be available.

81. On June 11, 1985, at approximately 3:50 p.m. Rivero placed a consensually recorded telephone call in affiant's presence to (305) 945-9204 (Billy's Pub) to STEPHEN A. NAHAY. During the conversation, NAHAY told Rivero that he had called "JOHNNY PEANUTS" and that everything was set. NAHAY stated that he expects a commitment from him ("PEANUTS") any day now. NAHAY advised Rivero that he had a few drinks with him ("JOHNNY PEANUTS") the other night and was told by him ("PEANUTS") not to worry.

82. On June 12, 1985, at approximately 10:40 a.m., Rivero placed a consensually recorded telephone call in affiant's presence to KEVIN GORDON ("WAXY") at (305) 861-4863. "WAXY" stated that after he gave him ("BUTCH" VANDERWYDE) the (5k) note on Friday, VANDERWYDE hadn't called. Rivero asked "WAXY" if they should just forget it. "WAXY" told Rivero that he (Rivero) should go with the "other guys" and inquired if "the top figure is still solid" ($25,000 payment). Rivero answered in the affirmative. "WAXY" told Rivero that he would be in Washington all next week (June 17-21) and stated that if he hears anything from him ("BUTCH") he ("WAXY") would call STEVE (NAHAY).

83. On June 12, 1985, at approximately 11:05 a.m., Rivero placed a consensually recorded telephone call in affiant's presence to STEPHEN A. NAHAY at telephone number (305) 651-5623. During the conversation, Rivero advised NAHAY that his "people"

would accept the deal. Rivero asked NAHAY if he called him ("PEANUTS") at that "number" (861-1479) when he talked to him the other day. NAHAY replied "Yes." Rivero asked NAHAY if he (Rivero) had the right number "861-1479." NAHAY replied in the affirmative. Rivero asked if he (Rivero) should call him ("PEANUTS"). NAHAY replied that he (NAHAY) will call him ("PEANUTS") and set up a meeting for next week. During the conversation, NAHAY advised that he may be moving on Sunday (June 16, 1985) to Lou Barone's residence because he was having arguments with his roommate Dominick (Dominick Romano).

84. Periodic surveillance between June 12 and June 21, 1985 by FBI agents at NAHAY's residence has established that NAHAY did not move to Barone's apartment.

85. On June 22, 1985, Rivero received a telephone call at his residence from STEPHEN NAHAY. NAHAY told Rivero that he was travelling to New York City on Sunday (June 23, 1985). NAHAY advised Rivero that while in New York he would meet with his uncle Joe Armone (phonetic) to set up a meeting with Armone (phonetic), Rago, himself and Rivero, for the purpose of getting Rivero into the union. NAHAY told Rivero that he will give Rivero two-days notice to fly to New York to make a $25,000 payoff to Rago to get a "book". Rivero asked NAHAY whether he had spoken with "PEANUTS". NAHAY stated that he had spoken to "PEANUTS" "the other night" at the "861-number". NAHAY said that he and "PEANUTS" would receive some of the $25,000 payoff money. This conversation was related to affiant on June 24, 1985.

86. On June 23, 1985, Rivero met with NAHAY and had a consensually recorded conversation. During the conversation NAHAY confirmed that he had spoken with "PEANUTS" and had called him on Thursday (June 20, 1985).

87. On June 26, 1985, Rivero placed a consensually recorded telephone call to NAHAY at (718) 366-8557. NAHAY told Rivero that he was going to see his people and would discuss his (Rivero's) matter at the right time when his people were not busy with other matters. NAHAY also told Rivero that he would contact "PEANUTS" when "the thing is ready."

88. On June 27, 1985, Rivero placed a consensually recorded telephone call to "WAXY" GORDON at (305) 653-0724. Rivero told "WAXY" that he had just spoken with "BUTCH" VANDERWYDE and that "BUTCH" told him that work on the docks was still slow. Rivero advised "WAXY" that he felt that the 5k on the note was not enough money for VANDERWYDE and that was why VANDERWYDE was not helping in getting RIVERO into the ILA. "WAXY" then asked Rivero if he thought the money wasn't enough; and Rivero agreed. Rivero asked "WAXY" if he thought that he should recontact VANDERWYDE and offer a greater amount. "WAXY" told Rivero that he would give VANDERWYDE a "buzz" tomorrow. "WAXY" then asked Rivero if VANDERWYDE appeard "up tight" about talking to him (Rivero) on the telephone; to which Rivero replied, "no". "WAXY" then told Rivero that he ("WAXY") would make another offer to VANDERWYDE.

88A. NAHAY has on several occasions asked Rivero for permission to reside "off and on" at Rivero's apartment. It is anticipated that NAHAY will stay at Rivero's apartment upon his

return from New York during the week of July 8, 1985. Based upon NAHAY'S prior use of Rivero's telephone (see paragraphs 28 and 60, supra), to place telephone calls in connection with the offenses specified in paragraphs 6A and 6B, supra, affiant has probable cause to believe that particular wire communications of of NAHAY concerning the offenses specified in paragraphs 6A and 6B supra, will be obtained through the wire interceptions from (305) 947-0818, the telephone subscribed to by Johnny Rivero. Furthermore, affiant believes it likely that some of these incriminating calls will be made outside the presence of Rivero and to telephones which may not be the subject of this affidavit, necessitating that Rivero's telephone also be the subject of the order requested herein.

89. Based upon the facts set forth above and my experience as a Special Agent of the Federal Bureau of Investigation, I belive that the probable cause allegations stated herein have been established.

NECESSITY FOR INTERCEPTION

90. Based on my knowledge of the facts of this investigation, my experience, and that of other Special Agents of the Federal Bureau of Investigation with whom I have discussed this case, and upon the information contained in this affidavit, I believe that the interception of wire communications is the only available investigative technique which has a reasonable likelihood of revealing and of securing admissible evidence

needed to establish the full nature and scope of the offenses being investigated.

91. All normal avenues of investigation have been carefully evaluated for use or have been attempted with only minimal results. The traditional investigative techniques utilized thus far have included the use of confidential informants, consensual recordings and physical surveillances. Also closely considered, but not deemed likely to succeed, for reasons set forth below, include the convening of a Federal Grand Jury, interview of subjects, review of telephone toll records, use of pen registers, and the execution of search warrants.

92. As indicated earlier, the information herein was obtained from two confidential sources. CS-2 has only been utilized to provide historical and background information. The FBI does not intend to utlize CS-2 in a covert investigation because CS-2's cooperation with the FBI in the UNIRAC investigation is widely known on the Miami waterfront. Rivero has been attempting to gain entry into the union but has met with little success to date. Although it may be possible to gain entry into the union through a substantial cash payment, Rivero's ability to obtain information about the full nature and scope of the illegal waterfront and union activities described herein is extremely limited. The preceding paragraphs set forth the subjects' concerns about the presence of FBI agents and informants on the waterfront and details their concerns about being recorded during meetings. On several occasions Rivero has been "patted down" by subjects of this investigation.

93. As I have detailed earlier in this application, ILA Local 1922 was previously the subject of a much publicized and extremely successful investigation - Operation UNIRAC. As a consequence, the union and individuals associated with the union are very sensitive to efforts by law enforcement to enlist the aid of any of its members. The necessity for the interception of wire communications has been demonstrated by the difficulty Rivero has had in becoming a member of ILA Local 1922. All direct attempts to join the union have been rebuffed and, as a consequence, Rivero has had to rely on intermediaries. One of these intermediaries, STEPHEN NAHAY, told Rivero that everyone on the waterfront feels that any new individual that attempts to join the union could be a federal agent or informant. Another intermediary, "WAXY" GORDON, told Rivero that since Rivero was coming in from the West, Rivero would be treated as if he were an undercover agent. It was also indicated to Rivero that efforts had been made to investigate whether Rivero works for the government.

94. Rivero has already been patted down twice, once by "WAXY" and a second time by "PEANUTS". The second pat down occurred in the presence of three police officers from the North Bay Village Police Department. At this time, "PEANUTS" also reiterated the ILA's apprehension of the FBI and accused Rivero of being a "cop". At the meeting which will occur when Rivero returns to Miami, Rivero will again be searched for recording equipment.

95. Further, according to NAHAY, Rivero will meet with NAHAY, "PEANUTS", Rago, and RAGO's bodyguards when Rivero returns to Miami. This meeting will be arranged at the last minute, will occur at a secluded spot, and the location of the meeting will not be revealed to Rivero in advance. Rivero and NAHAY will be brought to this meeting by "PEANUTS", and Rivero has been told that he will be searched for recording equipment. It is extremely unlikely that the FBI will have any advance notice of the location of this meeting. It is anticpated that the location of this meeting will be obtained through information derived from intercepted conversations. If the location of this meeting can be obtained in advance, the FBI may be able to obtain a further court order to place a concealed microphone on the premises.

96. Although Rivero will testify in any prosecutions that result from this investigation, his ability to penetrate the organization is extremely limited, as exemplified by the difficulty he has encountered in obtaining entrance into the union. Further, the ability to inject other informants or FBI agents into the union is similarly limited due to the subjects' expressed concerns about FBI agents and informants and their sensitivity to recording equipment. Moreover, it has been the experience of the FBI, including affiant, that organized crime figures and corrupt union officials isolate themselves and deal through intermediaries. Thus, even if Rivero is successful in gaining entry into the union after the meeting with Rago, his ability to determine the full scope of the participants in this offense is still extremely limited. No other informant has been

located who can penetrate the organization and provide the necessary investigative information.

97. The utility of undercover operations also are limited by the potentially violent nature demonstrated by certain subjects of this investigation. For example, NAHAY has discussed murders and robberies with Rivero and his prior use of violence to collect debts.

98. Due to the nature of the offenses being committed, as well as the sophistication of the persons involved, physical surveillance is not expected to disclose significant relevant evidence. Although surveillance has been able to corroborate the fact that Rivero has met with certain subjects of this investigation, surveillance has not been able to independently disclose the subject's criminal activity or the conversations. Surveillance of meetings between subjects or of the presence of subjects' at various locations is of limited utility. Further, as set forth herein, NAHAY has contacts with the North Bay Village Police Department to check license plates. This clearly makes close surveillance extremely difficult.

99. While toll records and pen register information may be useful in discovering the identities of the members of a criminal organization, they reveal little about the crimes being committed. What is not known and what we cannot learn from toll records or pen registers is the substance of their conversations. Thus, these techniques do not allow us to learn the nature and scope of any criminal conspiracy taking place.

100. I have been informed by AUSA Mark Schnapp, Chief of the Public Corruption Section of the United States Attorney's Office for the Southern District of Florida and AUSA Roberto Martinez of the United States Attorney's Office for the Southern District of Florida, that they do not believe that a grand jury investigation or interviews of the subjects would be successful in exposing the full nature and scope of the conspiracy, or the identities of all the conspirators. Such a grand jury investigation or interviews would likely result in the destruction of evidence and impair the goals of the investigation particularly because many of the individuals herein are related to organized crime interests. Based upon my experience, few individuals are willing to testify against organized crime figures. The use of grand jury subpoenas and grants of immunity appear infeasible at this time. Moreover, such contacts would obviously alert other subjects of the investigation.

101. The execution of search warrants is also deemed an ineffective investigative technique under the facts of this case since there is no reason at this time to believe that a search would uncover any items, documents or records which would disclose the total scope and true nature of the criminal activity alleged and all the participants involved. Moreover, the criminal activities under investigation here e.g., extortion, are not the type of activity for which records or documents are made or identifiable.

102. Finally, it should be emphasized that this investigation involves illegal payments to union officials, a

public official, and persons associated with La Cosa Nostra. The use of the traditional investigative techniques enumerated above would be of little or no avail inasmuch as illegal payments are usually in cash and records are generally not kept of such payments. The future meeting being arranged by "PEANUTS" TRONOLONE to effect a payoff to a union official is certainly evidence of the secret nature of the dealings surrounding illegal cash payoffs.

MINIMIZATION

103. All interceptions will be minimized in accordance with Chapter 119 of Title 18, United States Code. Interception will be suspended immediately when it is determined through voice identification, physical surveillance, or otherwise, that none of the named interceptees or any of their confederates, when identified, are participants in the conversation, unless it is determined during the portion of the conversation already overheard, that the conversation is criminal in nature. Even if one or more of the named interceptees or their confederates, when identified, is a participant in a conversation, monitoring will be suspended if the conversation is not criminal in nature or otherwise related to the offenses under investigation. In connection with the request to intercept telephone conversations at the City of Surfside, it is recognized that many telephone calls either to or from that location may involve legitimate governmental functions. Various measures, such as physical

surveillance, voice familiarity, and a review of activity on the Surfside City Hall telephone lines will mininize interceptions of non-relevant conversations.

AUTHORIZATION REQUESTED

104. The activity to be electronically monitored is believed to represent a continuing criminal conspiracy, and offenses of a continuing and repetitive nature, thereby necessitating the interception of communications on a continuing basis until the goals of the investigation are achieved. Therefore, it is requested that the interception not automatically terminate when the sought communications are first intercepted, but shall continue until communications are intercepted which reveal the full and complete manner in which the above-named individuals and others as yet unknown have committed and are committing the aforemetioned offenses referred to herein, the identities of the participants and co-conspirators in those offenses, their places of operation, the individual acts committed by aiders and abettors and co-conspirators in those offenses, the extent of partcipation in those offenses by aiders and abettors and co-conspirators, and the full and complete nature and scope of

the conspiracy involved, or for a period of thrity (30) days from the date of the Order, whichever is earlier.

Geoffrey C. Santini

GEOFFREY SANTINI
Special Agent - Federal
Bureau of Investigation
Miami, Florida

Sworn to and subscribed before me this 15 day of July, 1985.

Alcee L. Hastings

UNITED STATES DISTRICT JUDGE

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U. S. District Court
Southern District of Florida
By Carol Jaudon
Deputy Clerk
Date 1-19-89

United States Senate
MPS:RM:sg
IMPEACHMENT HEARINGS
HOUSE MANAGERS' EXHIBIT 162

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412-Hastings

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER AUTHORIZING THE INTERCEPTION OF WIRE COMMUNICATIONS

/

SEALING ORDER

IT IS HEREBY ORDERED AND ADJUDGED that the within Application for an Order Authorizing the Interception of Wire Communications and Affidavit in support thereof, and Order Authorizing the Interception of Wire Communications and related paperwork, be and the said pleadings are hereby, sealed until further order of the Court; and

IT IS FURTHER ORDERED AND ADJUDGED that the within pleadings be kept in the possession, custody, care and control of the Office of the Clerk of the United States District Court in a safe and secure place until further order of the Court;

IT IS FURTHER ORDERED that the Southern Bell Telephone Company of Miami, Florida, is agents, representatives, and its employees shall not disclose to the subscriber, or to any person, the existence of the investigation, and the Court's order, unless and until otherwise ordered by the Court.

DONE and ORDERED in Miami, Florida, this 15 day of July, 1985.

Certified to be a true and correct copy of the document on file.
Robert M. Vecsh, Clerk
U.S. District Court
Southern District of Florida
By: Carol Tanner
Deputy Clerk
Date 1-19-89

Alcee L. Hastings
UNITED STATES DISTRICT JUDGE

EXHIBIT 162 HOUSE

United States Senate
MDS:RH:sg
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 163

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412-Hastings

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE
INTERCEPTION OF WIRE COMMUNICATIONS
/

ORDER AUTHORIZING THE INTERCEPTION OF
WIRE COMMUNICATIONS

Application under oath having been made before me by Mark P. Schnapp, Assistant United States Attorney, for the Southern District of Florida, an investigative or law enforcement officer as defined in Section 2510(7) of Title 18, United States Code, for an order authorizing the interception of wire communications pursuant to Section 2518 of Title 18, United States Code, and full consideration having been given to matters set forth therein, the Court finds:

1. There is probable cause to believe, that JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", Douglas Daniel Rago, CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY, and others as yet unknown, have committed, are committing, and are about to commit the below mentioned offenses enumerated in Title 18, United States Code, Section 2516, to wit:

A. Specificially, as to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE,

EXHIBIT 163 HOUSE

("BUTCH"), KEVIN GORDON ("WAXY") and STEPHEN NAHAY, and others as yet unknown:

(1) R.I.C.O. Being associated with an "enterprise" as defined in Section 1961(4) of Title 18, United States Code, that is, a group of individuals associated in fact, which enterprise is engaged in, and the activities of which affect, interstate and foreign commerce, comprised of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, and conducting and participating, directly and indirectly, in the conduct of said enterprise's affairs through a pattern of racketeering activity, and conspiring to do so, all in violation of Sections 1962(c) and (d) and 1963 of Title 18, United States Code, said racketeering activity consisting of the following predicate offenses:

(a) Violations of Section 501(c) of Title 29, United States Code, that is, embezzling, stealing, and unlawfully converting the property or other assets of a labor organization;

(b) Violations of Section 1951 of Title 18, United States Code, that is, obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion or attempts or conspiring to do so in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922; and

(c) Acts involving bribery in violation of Florida State Law (Florida Laws §§838.014 et. seq.)

(2) Labor Offenses: Violations of Section 501(c) of Title 29, United States Code, by embezzling, stealing and unlawfully converting the property or other assets of a labor organization; and;

(3) Hobbs Act Extortion: Violations of Section 1951 of Title 18, United States Code, by obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion, or attempts or conspiring to do so, in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922.

B. Specifically, as to STEPHEN NAHAY, and others as yet unknown, in addition to those offenses set forth above:

(1) Narcotics Offenses: Violations of Sections 841(a)(1), 843(b) and 846 of Title 21, United States Code, involving the possession with intent to distribute and distribution of controlled substances; the use of communication facilities in committing, causing and facilitating the commission of acts set forth above; and conspiring to commit these offenses; and

(2) Interstate Travel in Aid of Racketeering Enterprises: Violations of Section 1952, of Title 18, United States Code, involving travel or use of facilities in interstate commerce with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of an unlawful business enterprise involving controlled substances, in violation of Title 21, United States Code, and thereafter performing, or attempting to perform acts to promote, manage,

establish, or carry on, or facilitate the promotion, establishment, or carrying on of said unlawful activity.

C. Specificially, as to KEVIN GORDON ("WAXY"), and others as yet unknown:

(1) Hobbs Act Extortion: Violations of Section 1951 of Title 18, United States Code, by obstructing, delaying, or affecting commerce, or the movement of articles or commodities in commerce, by extortion, or attempts or conspiring to do so, in connection with obtaining zoning changes, permits, and licenses.

(2) Extortionate Credit Transactions: Violations of Section 892 of Title 18, United States Code, concerning the extortionate extension of credit by an unknown individual to GORDON.

2. There is probable cause to believe that the telephone facilities set forth below and located at the below listed premises, subscribed as indicated below, have been, are being, and will be used by JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, in connection with the commission of offenses described in paragraph 1 above, as follows:

A. JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), STEPHEN NAHAY, and others as yet unknown, as to those offenses specified in paragraph 1A, over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
JOHN P. TRONOLONE, JR. 2000 Biarritz Drive, Apt. #207 Miami Beach, Florida	(305) 861-1479

B. CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, as to those offenses specified in paragraph 1A, over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Patricia L. Gordon 20180 N.W. 14 Court Miami, Florida (Residence of KEVIN GORDON)	(305) 653-0724

C. CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, as to those offenses specified in paragraph 1A, over the following telephones:

SUBSCRIBER & LOCATION	TELEPHONE NUMBERS
City of Surfside 9293 Harding Avenue Surfside, Florida	(305) 861-4863 (main number) 861-4864 (subsidiary number) 861-4865 " 861-4866 " 861-5034 "

D. STEPHEN NAHAY, and others as yet unknown, as to those offenses specified in paragraphs 1A and 1B, over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Dominick Romano 270 N.W. 189th Terrace Miami, Florida (Residence of STEPHEN NAHAY)	(305) 651-5623

E. STEPHEN NAHAY, and others as yet unknown, as to those offenses specified in paragraphs 1A and 1B and of KEVIN GORDON ("WAXY"), and others as yet unknown, as to those offenses specified in paragraph 1A, over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Johnny Rivero 4000 N.E. 169th Street Apt. 401 Miami, Florida	(305) 947-0818

3. There is probable cause to believe that particular wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown concerning the above-mentioned offenses will be obtained through the wire interceptions. In particular, these wire communications will concern:

A. As to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, conversations involving illegal labor union activities; unlawful waterfront activities; the prohibited receipt of money or things of value by labor union officers and employees, and persons who purport to control ILA Local 1922; the dates, times, places, amounts and methods of transfer of such illicit payments so received; identification of co-conspirators, and aiders and abettors in causing such illegal payments to be made.

B. As to STEPHEN NAHAY and others as yet unknown, the conversations over telephone facilities (305) 651-5623 and (305) 947-0818 will also include arrangements for, plans for, and payments for, the illegal purchase, sale, distribution, and interstate transportation of controlled substances.

4. Normal investigative procedures either have been tried without success and reasonably appear unlikely to succeed if continued, or reasonably appear unlikely to succeed if tried or

appear to be too dangerous, for specific reasons more fully set forth in the Application and Affidavit and applicable attachments submitted in support of this Order. In addition, these communications are expected to constitute admissible evidence of the commission of the offenses.

WHEREFORE, it is hereby Ordered that Special Agents of the Federal Bureau of Investigation are authorized, pursuant to the Application authorized by the Assistant Attorney General for the Criminal Division, the Honorable Stephen S. Trott, who has been specially designated by the Attorney General of the United States to exercise the power conferred on him by Section 2516 of Title 18, United States Code, to intercept wire communications of JOHN P. TRONOLONE, JR. (JOHNNY PEANUTS), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, concerning the offenses set forth in paragraph 1, to and from the telephone facilities as set forth in paragrah 2 above. Such interceptions shall not automatically terminate when the type of communications described above in paragraph 3 has been first obtained, but shall continue until communications are intercepted which reveal the full and complete manner in which the above-named individuals and others as yet unknown have committed and are committing the aforementioned offenses referred to herein, the identities of the participants and co-conspirators in those offenses, their places of operation, the individual acts committed by aiders and abettors and co-conspirators in those offenses, the extent of participation in those offenses by aiders and abettors and co-conspirators, and the full and complete

nature and scope of the conspiracy involved, or for a period of thirty (30) days from the date of this Order, whichever is earlier.

PROVIDING THAT, this authorization to intercept wire communications shall be executed as soon as practicable after the signing of this Order, and shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under Chapter 119 of Title 18 of the United States Code, and must terminate upon attainment of the authorized objectives or, in any event, at the end of thirty (30) days from the date of this Order. Interception will be suspended immediately when it is determined through voice identification, physical surveillance, or otherwise, that none of the named interceptees or any of their confederates, when identified, are participants in the conversation, unless it is determined during the portion of the conversation already overheard, that the conversation is criminal in nature. Even if one or more of the named interceptees or their confederates, when identified, is a participant in a conversation, monitoring will be suspended if the conversation is non-criminal in nature or otherwise related to the offenses under investigation.

IT IS FURTHER ORDERED pursuant to Title 18, United States Code, Section 2518(4), that the Southern Bell Telephone Company of Miami, Florida, a communication common carrier as defined in Title 18, United States Code, Section 2510(10), shall furnish the agents and employees of the Federal Bureau of Investigation, forthwith, all information, facilities and technical assistance

necessary to accomplish the interceptions unobtrusively and with a minimum of interference with the services that such carrier is according the persons whose communications are to be intercepted, the furnishing of such facilities or technical assistance by the Southern Bell Telephone Company to be compensated for by the Federal Bureau of Investigation at the prevailing rates, and that the Southern Bell Telephone Company, its representatives, agents and employees shall not disclose in any manner, directly or indirectly, to the listed subscriber, nor to any other person, the existence of this or any other order in this matter until ordered to do so by this Court.

IT IS FURTHER ORDERED that this authorization shall extend to the interception of wire communications occurring at any hour of the day or night during the period for which authorization is granted.

PROVIDING ALSO, that Mark P. Schnapp, or any other Assistant United States Attorneys, Southern District of Florida, shall provide the Court with a report showing what progress has been made toward achievement of the authorized objectives and the need for continued interception, on the 7th, 14th, 21st, 28th and 30th days following the signing of this Order.

DONE and ORDERED in Miami, Florida, this 15 day of July, 1985, at 10:55 (a.m.) (p.m.).

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U. S. District Court
Southern District of Florida
By Carol Jarrett
Deputy Clerk
Date 1-19-89

Alice L. Hastings
UNITED STATES DISTRICT JUDGE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 164

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 - Hastings

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE
INTERCEPTION OF WIRE COMMUNICATIONS
/

REDACTED (FOR SOUTHERN BELL) ORDER
AUTHORIZING INTERCEPTION OF WIRE
COMMUNICATIONS

Application under oath having been made before me by Mark P. Schnapp, Assistant United States Attorney for the Southern District of Florida, and being an "investigative or law enforcement officer" as defined in Section 2510(7) of Title 18, United States Code, for an order authorizing the interception of wire communications pursuant to Section 2516 of Title 18, United States Code, and full consideration having been given to the matters set forth therein:

IT IS HEREBY ORDERED that Special Agents of the Federal Bureau of Investigation (FBI) are authorized pursuant to the application authorized by the Assistant Attorney General in charge of the Criminal Division, the Honorable Stephen S. Trott, who has been specifically designated by the Attorney General of the United States, to exercise the power conferred on him by Section 2516, Title 18, United States Code, to intercept wire communications to and from the following telephones: (305) 861-1479, 2000 Biarritz Drive, Apt. 207, Miami Beach, Florida; (305) 653-0724, 20180 N.W. 14 Court, Miami, Florida; (305)

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861-4863 (main number), 861-4864 (subsidiary number), 861-4865 (subsidiary number), 861-4866 (subsidiary number), 861-5034 (subsidiary number), 9293 Harding Avenue, Surfside, Florida; (305) 651-5623, 270 N.W. 189th Terrace, Miami, Florida; and (305) 947-0818, 4000 N.E. 169th Street, Apt. 401, Miami, Florida, for a period of thirty (30) days from the date of this order.

IT IS FURTHER ORDERED that the Southern Bell Telephone Company of Miami, Florida, a communication common carrier as defined in Section 2510(10) of Title 18, United States Code, shall furnish the agents and employees of the FBI, forthwith, all information, facilities, and technical assistance necessary to accomplish the interceptions unobtrusively and with a minimum of interference with the services that such carrier is according the persons whose communications are to be intercepted, the furnishing of such facilities or technical assistance by the Southern Bell Telephone Company of Miami, Florida, to be compensated for by the FBI at the prevailing rates.

Providing that this authorization to intercept wire communications shall be executed as soon as practicable after signing of this order and shall be conducted in such way as to minimize the interception of communications not otherwise subject to interception under Chapter 119 of Title 18, United States Code, and must terminate upon attainment of the authorized objectives or, in any event, at the end of the thirty (30) days from the date of this order.

IT IS FURTHER ORDERED that this authorization shall extend to the interception of wire communications occurring at any hour

of the day or night during the period for which authorization is granted.

IT IS FURTHER ORDERED, that this order is sealed and that the Southern Bell Telephone Company, of Miami, Florida, its representatives, agents, and employees shall not disclose to the listed subscribers of the said telephone numbers, nor to any other person, the existence of this order, or the existence of this investigation or of the devices used to accomplish the aforementioned interception unless and until otherwise ordered by the Court.

DONE and ORDERED in Miami, Florida, this 15 day of July, 1985 at 10:55 (a.m.) (p.m.).

Alan L. Hastings
UNITED STATES DISTRICT JUDGE

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By Carol Tarelle
Deputy Clerk
D. 1-19-89

INSTRUCTIONS FOR THE EXECUTION OF A FEDERAL COURT ORDER AUTHORIZING THE INTERCEPTION OF WIRE COMMUNICATIONS

I. SUBJECTS

The following individuals are the subjects of a federal court order authorizing the interception of wire communications:

1. JOHN P. TROWOLONE, JR
a/k/a "Johnny Peanuts", and

2. CORNELIUS J. VANDERWYDE
a/k/a "Butch", and

3. KEVIN GORDON
a/k/a "Waxy", and

4. STEPHEN NAHAY, and

5. OTHERS AS YET UNKNOWN

United States Senate
EVIDENTIARY HEARINGS
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II. PRELIMINARY INSTRUCTIONS

Your objective is to faithfully execute a Court Order authorizing the interception of wire communications ("the Interception Order"). You must intercept only those conversations designated in the Interception Order, only for the crimes designated in the Interception Order; and must minimize the interception of privileged and/or non-pertinent conversations as set forth in the Interception Order. FAILURE TO FAITHFULLY EXECUTE THE INTERCEPTION ORDER COULD RESULT IN THE SUPPRESSION OF INTERCEPTED CONVERSATIONS. 18 U.S.C. Section 2518(5) and (10).

Before electronic surveillance begins, all monitoring agents must read the Interception Order and the Application and Affidavit submitted in support of that Order. All monitoring agents should carefully read, and be intimately familiar with, those

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portions of the Interception Order which list the federal crimes of concern. FURTHERMORE, ALL MONITORING AGENTS MUST DATE AND SIGN A COPY OF THE INTERCEPTION ORDER.

At the outset of the electronic surveillance, these instructions concerning the proper approach to the executing of the Interception Order will be disseminated to the monitoring agents and posted at the monitoring site. These instructions have been drafted and disseminated for the purpose of insuring that all monitoring agents: (a) uniformly follow these instructions; and, (b) consistently apply these instructions with respect to their minimization efforts. ALL MONITORING AGENTS SHOULD THOROUGHLY FAMILIARIZE THEMSELVES WITH THESE INSTRUCTIONS AND UTILIZE THEM AS A QUICK REFERENCE.

III. PARTICULARIZED INSTRUCTIONS

A. There is no Legal Difference Between Listening, Monitoring, or Recording

The law does not distinguish between "listening," "monitoring" or "recording" a conversation. Courts generally regard an interception order like any other search warrant: it authorizes a limited "search," and limited "seizure," i.e., interception of evidence. Whether a conversation is merely overheard or also recorded makes no difference legally; it has been intercepted.

If you intercept everything, the fruits of your investigation are likely to be suppressed. We have to establish

that we neither LISTENED or nor RECORDED conversations we have no right to overhear.

B. Never Leave A Machine Unattended On "Automatic"

No machine is to be left unattended on "automatic." The statutory requirement of minimization requires the monitoring agents to determine whether or not each conversation is relevant and subject to interception.

C. Record Any Conversation Or Part Thereof That Is Monitored

Any time a conversation or any part thereof is monitored, it should be recorded. If the machine has a separate monitor switch, that switch must not be activated unless the machine is recording. However, if the machine malfunctions, or a tape has just run out, monitoring is permissible while the situation is being remedied. Be sure to report the overheard conversation in the logs, estimating the length of the conversation and describing the reason for the failure to record.

D. Conversations Which May Be Intercepted

The Interception Order authorizes you to intercept the wire communications of JOHN P. TRONOLONE, JR ("Johnny Peanuts") CORNELIUS J. VANDEMWYDE ("Butch"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and OTHERS AS YET UNKNOWN, concerning the offenses set forth in paragraph 1 of the Order, to and from the telephone facilities

set forth in paragraph 2 of the Order. The Order further authorizes that such interceptions shall not automatically terminate when the type of communications described in paragraph 3 of the Order has been first obtained, but shall continue until communications are intercepted which reveal the full and complete manner in which the above-named individuals and others as yet unknown have committed and are committing the aforementioned offenses referred to in the Order, the identities of the participants and co-conspirators in those offenses, their places of operation, the individual acts committed by aiders and abettors and co-conspirators in those offenses, the extent of participation in those offenses by aiders and abettors and co-conspirators, and the full and complete nature and scope of the conspiracy involved. Listen to the beginning of each conversation only so long as is necessary to determine the identities of the parties and the nature and character of the conversations.

WARNING: If you determine that the parties to, or the nature and character of, a conversation are not covered by the Interception Order, IMMEDIATELY AFTER MAKING THOSE DETERMINATIONS, TURN OFF THE MACHINES (THAT IS, BOTH THE LISTENING AND RECORDING DEVICES).

E. Spot Monitoring or Spot Checking

If a conversation does not, during the initial 30 to 60 seconds, fall within the category specified in the warrant, the recording and listening devices must be turned off. However, it is possible that some time after the machine has been turned off, the parties might begin to discuss the violations of federal law set forth in the Interception Order. To guard against missing such conversation, check periodically (SPOT-CHECK) by activating the monitor and record switch every 30 to 60 seconds

or so to determine if the parties to, or nature of, conversations have changed to those covered in the Interception Order. LISTEN FOR A FEW SECONDS. If during this brief period evidence of our named parties and violations of federal laws set forth in the Interception Order are intercepted, keep listening and recording. If no such evidence is intercepted, TURN OFF THE MACHINE (STOP LISTENING AND STOP RECORDING). Specifically note and enter in the daily logs the beginning and ending time, the duration of, and the substance of, each spot check.

Continue to spot check as the circumstances indicate. Use your judgment as to when to spot check because many factors enter into your decision: the parties to the conversations, the precise relationship of the parties, the length of relationship, the number of conversations between the parties, the present status of the investigation, the past conduct of the parties, and whether the parties are speaking in code, or in veiled or ambiguous language, etc.

However, there are two possible exceptions to this general rule regarding spot checking: "patterns of innocence" and "patterns of involvement."

(1) Patterns of Innocence

If, after several days or weeks of electronic surveillance, you have learned that conversations between the named subjects and a particular individual or individuals are invariably innocent, no-crime-related matters, then a "Pattern of Innocence" exists and such conversations should no be recorded, listened to or even spot-checked.

(2) Patterns of Involvement

If, during the course of the electronic surveillance, one or more individuals is identified (by name, nickname, voice, etc.) as a co-conspirator or accomplice of the named subjects, and there is no applicable privilege involved (Subsection IV, I), the "spot-checking" requirement may be relaxed somewhat as to conversations between our subject and those individuals.

F. Evidence of Other Crimes: Action Required

You do not have authorization to intercept conversations concerning the planning or commission of crimes which are not listed in the Interception Order. Electronic surveillance must be conducted with our sole legal purpose in mind: the interception of conversations between the named subjects and co-conspirators and accomplices involving the specific violations listed in the Interception Order.

However, you do not have to terminate intercepts if other serious crimes are being discusses, e.g., arson, robbery, etc. In that event, continue to record that conversation, but NOTIFY ME IMMEDIATELY.

Your sole purpose must be to intercept conversations concerning specific federal violations enumerated in the Order. When you are monitoring, KEEP THAT IN MIND AT ALL TIMES.

G. Conversations In Which Our Named Subjects Are Not Participants

As a general rule, if none of the participants in a conversation is an enumerated subject, that conversation is beyond the scope of the Interception Order and must not be listened

to or recorded.

However, in executing the Interception Order, you have the right to insure that the enumerated subjects do not begin to discuss facts involving the enumerated federal violations after the initial part of a conversation.

Therefore, in my opinion, it is permissible to listen to a conversation which does not involve any named subjects for a brief period of time. If our subjects do not participate within the first 30 to 60 seconds or so, you must stop listening and turn off the machine. (This time frame is only a guide -- in certain cases you can, within a much shorter period, make a determination of non-pertinency). Thereafter, you may do no more than spot-check the conversation. (SEE SUBSECTION ON SPOT-CHECKING).

H. New Subjects

One of our stated and authroized purposes in conducting this investigation is to IDENTIFY other co-conspirators and/or accomplices in the above-mentioned activities.

As soon as any such individual is identified, I should be notified immediately.

I. Privileged Communications

You may not listen to any conversation which would fall under any legal privilege. The general categories of privileged communications are as follows: attorney-client, priest-penitent, doctor-patient, and husband-wife.

(1) Attorney-Client

Consider this an absolute rule: NEVER knowingly listen to or record a conversation between a subject and his attorney when the conversation involves an attorney-client relationship.

If there are any conversations between any of the subjects and any of their attorneys you are NEVER to listen to ANY portion of ANY of these conversations at ANY time. To listen to any conversation with any of these attorneys could result in the dismissal of a pending indictment. If you should listen to a conversation with an unknown individual and you determine that this individual is an agent or an employee of one of these attorneys, you should instantly cease monitoring and recording the conversation. If you happen to accidentally monitor a conversation with one of these attorneys or an attorney's agent or employee, make a note of that conversation and its contents and immediately notify your supervisor and me; but, until given further instructions, DO NOT relate to anyone (including the supervisor, and/or any other Agent) the substance of that conversation.

If at any time during the investigation we learn of the name(s) and/or telephone number(s) of any attorneys retained by our subjects, such names and telephone numbers are to be posted in a conspicuous place in the monitoring site. Any dial-outs to such telephone numbers reflected contemporaneously by the pen register require that the recorder and monitoring device be turned off as soon as it is ascertained that is an attorney who is being called by our subject, or spoken to by our subject.

(2) Priest-Penitent

All conversations between an individual and his clergyman are to be considered privileged. We could not obtain an interception order to listen to a man confess his sins to a priest in a confessional booth; similarly, we must not listen to a subject discuss his or her personal, financial or legal problems with his or her priest, minister rabbi, etc.

(3) Doctor-Patient

Any conversations a patient has with a doctor relative to diagnosis, symptoms, treatment or any other aspect of physical, mental or emotional health is privileged. The instant it is learned that our subject is talking to a doctor about his health (or someone else's health), TURN OFF THE MACHINE (STOP LISTENING AND STOP RECORDING).

(4) Husband-Wife

Any conversation between a husband and his wife which relates in any way to the marital relationship is privileged.

For Example:

If they discuss their sex life - DON'T LISTEN. DON'T RECORD.

If they discuss problems their child is having in school - DON'T LISTEN. DON'T RECORD.

If they discuss a fight or argument they had last night or a week ago - DON'T LISTEN. DON'T RECORD.

However, it may be that one of our subject's wife or husband acts as a partner, message-taker or message-deliverer for our subjects. Therefore a limited degree of spot-monitoring may be maintained if a subject calls his or her spouse. (See Section IV, E above). If a pattern develops demonstrating that one of our subject's spouse is in fact deeply involved in our subject's dealings, NOTIFY ME IMMEDIATELY.

(5) Other Relationships

No legal privilege exists with respect to conversations between a subject and the following types of individuals:

(a) paramours
(b) accountants
(c) bankers and representatives of legal financial institutions
(d) insurance agents
(e) children
(f) private investigators
(g) media (i.e. television and/or newspaper) reporters
(h) creditors

HOWEVER, KEEP IN MIND THAT YOUR FUNCTION IS TO INTERCEPT AND RECORD CONVERSATIONS RELATED TO VIOLATIONS OF SPECIFIC FEDERAL STATUTES, NOT TO INDISCRIMINATELY INVADE THE PRIVACY OF THE NAMED SUBJECTS AND/OR OTHERS. In general, follow the "SPOT-CHECKING" rules outlined in subsection IV, if conversations in this category are intercepted.

J. Conversations Between the Named Subjects And Unknown Individuals

Even if a conversation between the named subjects and other, unknown individuals does not fall within the ambit of one of the privileged communciations discussed above, that does not automatically mean you have a right to listen to and record the entire conversation. You have authority to listen to and record only those conversations which pertain to violations of the statutes enumerated in the court's order.

In order to meaningfully execute the Interception Order, it may be necessary to listen to non-privileged conversations, which in fact do not relate to authorized conversations at all, and which do not involve a co-conspirator, accomplice, agent, etc., of our subject. Hence, you may wind up listening to and recording conversations which, at the time, sound like they involve violations of the enumerated statutes, but which, later turn out to be innocent exchanges between a named subject and someone who is completely uninvolved in any illegal activity.

In my opinion, the Courts will not suppress pertinent conversations simply because some non-privileged and non-pertinent conversations have been intercepted. However, bear in mind that eventually a Court will have to decide whether you executed the Interception Order in a manner specified by the Court.

The standard the Court will apply in determining whether your listening to non-pertinent conversations was overbroad is:

> The existence vel non of.... a violation of the Fourt Amendment of the United States Constitution or of 18 U.S.C. Section 2510-2520 turns on an objective assessment of the officer's actions in light of the facts and circumstances confronting him at that time. Subjective intent alone . . . does not make otherwise lawful conduct illegal or unconstitutional. Scott v. United States, 436 U.S. 128, at 136 t0 140 (1978).
>
> The minimization standard applies to a test a reasonablgness to the peculiar facts of each case . . . . Three factors are considered in deciding whether attempts to minimize were reasonable: (1) the nature and scope of the criminal enterprise under investigation; (2) the Government's reasonable interference of the character of a conversation from the parties to it; and, (3) the extent of judicial supervision. United States v. Hyde, 574 F.2d 856, 869 (5th Cir. 1978); United States v. Feldman, 606 F.2d 673, 678 (6th Cir. 1979), cert. denied, 445 U.S. 961 (1980).

K. City of Surfside

In connection with the request of intercept telephone conversations from the facilities subscribed to by the City of Surfside, it is recognized that many telephone calls to or from that location may involve legitimate governmental functions.

L. Daily Plant Report (Log)

Abstracts or summaries of each conversation are to be made at the time of interception and are to be included in the logs. If the conversation was not entirely recorded, an appropriate notation should be made indicating the incomplete nature of the conversation (e.g., monitoring discontinued) and why the conversation was not completely recorded (e.g., non-pertinent, privileged). Where the exact words used by the participants are important, that portion of the conversation should be delivered to the supervising attorney at the beginning of the following day or as soon as possible.

The logs should reflect all activity occurring at the monitoring site, concerning the intercepted conversations, pertaining to the equipment itself (e.g., replaced reel #2 w/#3;

malfunction with recorder; no overheard conversation; summarized, etc.) These logs will ultimately be used by you to explain and to reflect your action taken in intercepting or not intercepting a particular communication. Therefore, it is vitally important to succinctly describe the parties to the conversations (e.g., Lou to Bill, unknown to unknown, etc.) and conversations, the nature and character of the conversation (e.g., discussed landscaping or antiques, etc.), and the action taken (e.g., monitor discontinued, non-pertinent or privileged, etc.). If you use abbreviations, e.g. "non-pert.", "priv.", please be sure that all monitoring agents use the same abbreviations to eliminate any possibility of later confusion. All monitoring agents will record the approximate time (in minutes) the monitor is turned on and approximate time the monitor is turned off. The actual length of any interception will be determined by the transcribing agents at the Miami Office.

The daily statistic sheet is extremely important for our reports to the issuing Judge and ultimately to the Court which will litigate the issue of minimization. If you keep a running count of the subject and the nature of the conversations, our efforts in preparing for any hearing or trial will be greatly facilitated.

The Judge of the United States District Court who issued the Interception Order has required us to make periodic reports to him about the progress of the investigation and the manner in which the Interception Order is being executed. When he wants such reports, I am the person he will ask for them. These reports are due (TYPED) EACH SEVENTH DAY.

* * *

The time may come when a search warrant, additional interception orders or some other legal advice or decision may be needed. I am the one you will come to for that assistance.

If I am to perform these tasks, I must be advised of developments daily by the Supervising Agent and of emergencies or fast-breaking events immediately by the monitoring agents. This necessarily means that I must receive a copy of all logs, transcripts and surveillance reports regularly.

You may reach me by phone at the following numbers (305) 350-5435 - Miami office; (305) 443-5073 - home (Miami, Florida). If you can not reach me, call AUSA Mark Schnapp at (305) 350-5438 - Miami Office or (305) 858-9082 - Home (Miami, Florida), or AUSA Jon May at (305) 350-5420 - Miami Office or (305) 652-8060 - Home (Miami, Florida).

DO NOT HESITATE TO CALL AT ANY TIME OF THE DAY OR NIGHT FOR ADVICE.

ROBERTO MARTINEZ
Assistant United States Attorney
155 South Miami Avenue
Miami, Florida 33130

ADDITIONAL INSTRUCTIONS FOR AGENTS INVOLVED IN THIS INVESTIGATION

The recordings should be protected from editing or alterations. This requirement of 18 U.S.C. §2518(a) is satisfied by adherence to the following procedures:

(a) The original recording should be placed in a sealed envelope, box, or similar container, after making of the duplicate recordings referred to below, and kept in the custody of the investigative agency until made available to the Court immediately at the expiration of the period of the order for the Court's sealing.

(b) A chain of custody form should accompany the original recording. On this form should be a brief statement signed by the supervising agent which identifies:

(1) The order authorizing the recorded interceptions (by number if possible);

(2) The date and time period of the recorded conversations;

(3) The identity of the primary subjects whose conversations were recorded; and

(4) The place or facility where or over which the recorded communications occurred.

(c) The form should indicate to whom, if anyone, the supervising agent has transferred custody of the original recording, and the date and time of transfer. Each subsequent transfer, including that to the Court, should be similarly noted on the form.

(d) The agent conducting the recording should mark a label attached to the original tape reel to identify it as corresponding with the accompanying chain of custody form. The date of the recording should also be marked on the label and initialed by the agent.

(e) Each agent signing the chain of custody form should be prepared to testify that the original tape, while in his custody, was kept from the access of third parties and was not altered in any manner. It is the responsibility of the investigative agency to insure that the original recordings in their custody will be maintained in such a manner as to insure their admissibility in evidence over objections to the integrity of the recordings.

Duplicates of the original tapes of pertinent conversations should be made by the investigative agency for use in the investigation. This necessary procedure, authorized under 18 U.S.C. §2518(8)(a) should, of course, be done prior to sealing of the original and if technically possible it is suggested it be accomplished simultaneously with the interception and recording of communications on the original tape.

Preparation of Transcripts. A verbatim transcript covering all pertinent, non-privileged communications recorded during the entire period of the interception should be prepared by the supervisory agent and furnished to the supervisory attorney. This transcript should be made and furnished on a daily basis if possible. In the event the supervising agent determines that preparation of a complete transcript on a daily basis would be impracticable due to a heavy volume of intercepted communications or other considerations, he may prepare a daily partial transcript which will be given to the supervisory attorney and used in connection with the investigation or subsequent proceedings and a more complete verbatim transcript of all pertinent conversations should be delivered to the supervisory attorney as soon as possible after the conclusion of the period of interception.

PLEASE PREPARE THESE TRANSCRIPTS ON UNMARKED UNLINED 8 1/2 X 11 inch SIZED PAPER (TYPED). THE AGENT WHO MONITORED THE INTERCEPTED CONVERSATIONS MUST REVIEW BOTH TRANSCRIPTS AND INITIAL THEM ON THE REVERSE SIDE OF EACH PAGE.

Listen Post: 948-9180; 9181

INSTRUCTIONS FOR THE EXECUTION OF A FEDERAL COURT ORDER AUTHORIZING THE INTERCEPTION OF WIRE COMMUNICATIONS

I. SUBJECTS

The following individuals are the subjects of a federal court order authorizing the interception of wire communications:

1. JOHN P. TRONOLONE, JR
a/k/a "Johnny Peanuts", and

2. CORNELIUS J. VANDERWYDE
a/k/a "Butch", and

3. KEVIN GORDON
a/k/a "Waxy", and

4. STEPHEN NAHAY, and

5. OTHERS AS YET UNKNOWN

II. PRELIMINARY INSTRUCTIONS

Your objective is to faithfully execute a Court Order authorizing the interception of wire communications ("the Interception Order"). You must intercept only those conversations designated in the Interception Order, only for the crimes designated in the Interception Order; and must minimize the interception of privileged and/or non-pertinent conversations as set forth in the Interception Order. FAILURE TO FAITHFULLY EXECUTE THE INTERCEPTION ORDER COULD RESULT IN THE SUPPRESSION OF INTERCEPTED CONVERSATIONS. 18 U.S.C. Section 2518(5) and (10).

Before electronic surveillance begins, all monitoring agents must read the Interception Order and the Application and Affidavit submitted in support of that Order. All monitoring agents should carefully read, and be intimately familiar with, those

portions of the Interception Order which list the federal crimes of concern. FURTHERMORE, ALL MONITORING AGENTS MUST DATE AND SIGN A COPY OF THE INTERCEPTION ORDER.

At the outset of the electronic surveillance, these instructions concerning the proper approach to the executing of the Interception Order will be disseminated to the monitoring agents and posted at the monitoring site. These instructions have been drafted and disseminated for the purpose of insuring that all monitoring agents: (a) uniformly follow these instructions; and, (b) consistently apply these instructions with respect to their minimization efforts. ALL MONITORING AGENTS SHOULD THOROUGHLY FAMILIARIZE THEMSELVES WITH THESE INSTRUCTIONS AND UTILIZE THEM AS A QUICK REFERENCE.

III. PARTICULARIZED INSTRUCTIONS

A. There is no Legal Difference Between Listening, Monitoring, or Recording

The law does not distinguish between "listening," "monitoring" or "recording" a conversation. Courts generally regard an interception order like any other search warrant: it authorizes a limited "search," and limited "seizure," i.e., interception of evidence. Whether a conversation is merely overheard or also recorded makes no difference legally; it has been intercepted.

If you intercept everything, the fruits of your investigation are likely to be suppressed. We have to establish

that we neither LISTENED or nor RECORDED conversations we have no right to overhear.

B. Never Leave A Machine Unattended On "Automatic"

No machine is to be left unattended on "automatic." The statutory requirement of minimization requires the monitoring agents to determine whether or not each conversation is relevant and subject to interception.

C. Record Any Conversation Or Part Thereof That Is Monitored

Any time a conversation or any part thereof is monitored, it should be recorded. If the machine has a separate monitor switch, that switch must not be activated unless the machine is recording. However, if the machine malfunctions, or a tape has just run out, monitoring is permissible while the situation is being remedied. Be sure to report the overheard conversation in the logs, estimating the length of the conversation and describing the reason for the failure to record.

D. Conversations Which May Be Intercepted

The Interception Order authorizes you to intercept the wire communications of JOHN P. TRONOLONE, JR ("Johnny Peanuts") CORNELIUS J. VANDERWYDE ("Butch"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and OTHERS AS YET UNKNOWN, concerning the offenses set forth in paragraph 1 of the Order, to and from the telephone facilities

set forth in paragraph 2 of the Order. The Order further authorizes that such interceptions shall not automatically terminate when the type of communications described in paragraph 3 of the Order has been first obtained, but shall continue until communications are intercepted which reveal the full and complete manner in which the above-named individuals and others as yet unknown have committed and are committing the aforementioned offenses referred to in the Order, the identities of the participants and co-conspirator in those offenses, their places of operation, the individual acts committed by aiders and abettors and co-conspirators in those offenses, the extent of participation in those offenses by aiders and abettors and co-conspirators, and the full and complete nature and scope of the conspiracy involved. Listen to the beginning of each conversation only so long as is necessary to determine the identities of the parties and the nature and character of the conversations.

WARNING: If you determine that the parties to, or the nature and character of, a conversation are not covered by the Interception Order, IMMEDIATELY AFTER MAKING THOSE DETERMINATIONS, TURN OFF THE MACHINES (THAT IS, BOTH THE LISTENING AND RECORDING DEVICES).

E. Spot Monitoring or Spot Checking

If a conversation does not, during the initial 30 to 60 seconds, fall within the category specified in the warrant, the recording and listening devices must be turned off. However, it is possible that some time after the machine has been turned off, the parties might begin to discuss the violations of federal law set forth in the Interception Order. To guard against missing such conversation, check periodically (SPOT-CHECK) by activating the monitor and record switch every 30 to 60 seconds

or so to determine if the parties to, or nature of, conversations have changed to those covered in the Interception Order. LISTEN FOR A FEW SECONDS. If during this brief period evidence of our named parties and violations of federal laws set forth in the Interception Order are intercepted, keep listening and recording. If no such evidence is intercepted, TURN OFF THE MACHINE (STOP LISTENING AND STOP RECORDING). Specifically note and enter in the daily logs the beginning and ending time, the duration of, and the substance of, each spot check.

Continue to spot check as the circumstances indicate. Use your judgment as to when to spot check because many factors enter into your decision: the parties to the conversations, the precise relationship of the parties, the length of relationship, the number of conversations between the parties, the present status of the investigation, the past conduct of the parties, and whether the parties are speaking in code, or in veiled or ambiguous language, etc.

However, there are two possible exceptions to this general rule regarding spot checking: "patterns of innocence" and "patterns of involvement."

(1) Patterns of Innocence

If, after several days or weeks of electronic surveillance, you have learned that conversations between the named subjects and a particular individual or individuals are invariably innocent, no-crime-related matters, then a "Pattern of Innocence" exists and such conversations should no be recorded, listened to or even spot-checked.

(2) Patterns of Involvement

If, during the course of the electronic surveillance, one or more individuals is identified (by name, nickname, voice, etc.) as a co-conspirator or accomplice of the named subjects, and there is no applicable privilege involved (Subsection IV, I), the "spot-checking" requirement may be relaxed somewhat as to conversations between our subject and those individuals.

F. Evidence of Other Crimes: Action Required

You do not have authorization to intercept conversations concerning the planning or commission of crimes which are not listed in the Interception Order. Electronic surveillance must be conducted with our sole legal purpose in mind: the interception of conversations between the named subjects and co-conspirators and accomplices involving the specific violations listed in the Interception Order.

However, you do not have to terminate intercepts if other serious crimes are being discusses, e.g., arson, robbery, etc. In that event, continue to record that conversation, but NOTIFY ME IMMEDIATELY.

Your sole purpose must be to intercept conversations concerning specific federal violations enumerated in the Order. When you are monitoring, KEEP THAT IN MIND AT ALL TIMES.

G. Conversations In Which Our Named Subjects Are Not Participants

As a general rule, if none of the participants in a conversation is an enumerated subject, that conversation is beyond the scope of the Interception Order and must not be listened

to or recorded.

However, in executing the Interception Order, you have the right to insure that the enumerated subjects do not begin to discuss facts involving the enumerated federal violations after the initial part of a conversation.

Therefore, in my opinion, it is permissible to listen to a conversation which does not involve any named subjects for a brief period of time. If our subjects do not participate within the first 30 to 60 seconds or so, you must stop listening and turn off the machine. (This time frame is only a guide -- in certain cases you can, within a much shorter period, make a determination of non-pertinency). Thereafter, you may do no more than spot-check the conversation. (SEE SUBSECTION ON SPOT-CHECKING).

H. New Subjects

One of our stated and authroized purposes in conducting this investigation is to IDENTIFY other co-conspirators and/or accomplices in the above-mentioned activities.

As soon as any such individual is identified, I should be notified immediately.

I. Privileged Communications

You may not listen to any conversation which would fall under any legal privilege. The general categories of privileged communications are as follows: attorney-client, priest-penitent, doctor-patient, and husband-wife.

(1) Attorney-Client

Consider this an absolute rule: NEVER knowingly listen to or record a conversation between a subject and his attorney when the conversation involves an attorney-client relationship.

If there are any conversations between any of the subjects and any of their attorneys you are NEVER to listen to ANY portion of ANY of these conversations at ANY time. To listen to any conversation with any of these attorneys could result in the dismissal of a pending indictment. If you should listen to a conversation with an unknown individual and you determine that this individual is an agent or an employee of one of these attorneys, you should instantly cease monitoring and recording the conversation. If you happen to accidentally monitor a conversation with one of these attorneys or an attorney's agent or employee, make a note of that conversation and its contents and immediately notify your supervisor and me; but, until given further instructions, DO NOT relate to anyone (including the supervisor, and/or any other Agent) the substance of that conversation.

If at any time during the investigation we learn of the name(s) and/or telephone number(s) of any attorneys retained by our subjects, such names and telephone numbers are to be posted in a conspicuous place in the monitoring site. Any dial-outs to such telephone numbers reflected contemporaneously by the pen register require that the recorder and monitoring device be turned off as soon as it is ascertained that is an attorney who is being called by our subject, or spoken to by our subject.

(2) Priest-Penitent

All conversations between an individual and his clergyman are to be considered privileged. We could not obtain an interception order to listen to a man confess his sins to a priest in a confessional booth; similarly, we must not listen to a subject discuss his or her personal, financial or legal problems with his or her priest, minister rabbi, etc.

(3) Doctor-Patient

Any conversations a patient has with a doctor relative to diagnosis, symptoms, treatment or any other aspect of physical, mental or emotional health is privileged. The instant it is learned that our subject is talking to a doctor about his health (or someone else's health), TURN OFF THE MACHINE (STOP LISTENING AND STOP RECORDING).

(4) Husband-Wife

Any conversation between a husband and his wife which relates in any way to the marital relationship is privileged.

For Example:

If they discuss their sex life - DON'T LISTEN. DON'T RECORD.

If they discuss problems their child is having in school - DON'T LISTEN. DON'T RECORD.

If they discuss a fight or argument they had last night or a week ago - DON'T LISTEN. DON'T RECORD.

However, it may be that one of our subject's wife or husband acts as a partner, message-taker or message-deliverer for our subjects. Therefore a limited degree of spot-monitoring may be maintained if a subject calls his or her spouse. (See Section IV, E above). If a pattern develops demonstrating that one of our subject's spouse is in fact deeply involved in our subject's dealings, NOTIFY ME IMMEDIATELY.

(5) Other Relationships

No legal privilege exists with respect to conversations between a subject and the following types of individuals:

(a) paramours
(b) accountants
(c) bankers and representatives of legal financial institutions
(d) insurance agents
(e) children
(f) private investigators
(g) media (i.e. television and/or newspaper) reporters
(h) creditors

HOWEVER, KEEP IN MIND THAT YOUR FUNCTION IS TO INTERCEPT AND RECORD CONVERSATIONS RELATED TO VIOLATIONS OF SPECIFIC FEDERAL STATUTES, NOT TO INDISCRIMINATELY INVADE THE PRIVACY OF THE NAMED SUBJECTS AND/OR OTHERS. In general, follow the "SPOT-CHECKING" rules outlined in subsection IV, if conversations in this category are intercepted.

J. Conversations Between the Named Subjects And Unknown Individuals

Even if a conversation between the named subjects and other, unknown individuals does not fall within the ambit of one of the privileged communciations discussed above, that does not automatically mean you have a right to listen to and record the entire conversation. You have authority to listen to and record only those conversations which pertain to violations of the statutes enumerated in the court's order.

In order to meaningfully execute the Interception Order, it may be necessary to listen to non-privileged conversations, which in fact do not relate to authorized conversations at all, and which do not involve a co-conspirator, accomplice, agent, etc., of our subject. Hence, you may wind up listening to and recording conversations which, at the time, sound like they involve violations of the enumerated statutes, but which, later turn out to be innocent exchanges between a named subject and someone who is completely uninvolved in any illegal activity.

In my opinion, the Courts will not suppress pertinent conversations simply because some non-privileged and non-pertinent conversations have been intercepted. However, bear in mind that eventually a Court will have to decide whether you executed the Interception Order in a manner specified by the Court.

The standard the Court will apply in determining whether your listening to non-pertinent conversations was overbroad is:

> The existence vel non of.... a violation of the Fourt Amendment of the United States Constitution or of 18 U.S.C. Section 2510-2520 turns on an objective assessment of the officer's actions in light of the facts and circumstances confronting him at that time. Subjective intent alone . . . does not make otherwise lawful conduct illegal or unconstitutional. Scott v. United States, 436 U.S. 128, at 136 to 140 (1978).
>
> The minimization standard applies to a test a reasonableness to the peculiar facts of each case . . . . Three factors are considered in deciding whether attempts to minimize were reasonable: (1) the nature and scope of the criminal enterprise under investigation; (2) the Government's reasonable interference of the character of a conversation from the parties to it; and, (3) the extent of judicial supervision. United States v. Hyde, 574 F.2d 856, 869 (5th Cir. 1978); United States v. Feldman, 606 F.2d 673, 678 (6th Cir. 1979), cert. denied, 445 U.S. 961 (1980).

K. City of Surfside

In connection with the request of intercept telephone conversations from the facilities subscribed to by the City of Surfside, it is recognized that many telephone calls to or from that location may involve legitimate governmental functions.

L. Daily Plant Report (Log)

Abstracts or summaries of each conversation are to be made at the time of interception and are to be included in the logs. If the conversation was not entirely recorded, an appropriate notation should be made indicating the incomplete nature of the conversation (e.g., monitoring discontinued) and why the conversation was not completely recorded (e.g., non-pertinent, privileged). Where the exact words used by the participants are important, that portion of the conversation should be delivered to the supervising attorney at the beginning of the following day or as soon as possible.

The logs should reflect all activity occurring at the monitoring site, concerning the intercepted conversations, pertaining to the equipment itself (e.g., replaced reel #2 w/#3;

malfunction with recorder; no overheard conversation; summarized, etc.) These logs will ultimately be used by you to explain and to reflect your action taken in intercepting or not intercepting a particular communication. Therefore, it is vitally important to succinctly describe the parties to the conversations (e.g., Lou to Bill, unknown to unknown, etc.) and conversations, the nature and character of the conversation (e.g., discussed landscaping or antiques, etc.), and the action taken (e.g., monitor discontinued, non-pertinent or privileged, etc.). If you use abbreviations, e.g. "non-pert.", "priv.", please be sure that all monitoring agents use the same abbreviations to eliminate any possibility of later confusion. All monitoring agents will record the approximate time (in minutes) the monitor is turned on and approximate time the monitor is turned off. The actual length of any interception will be determined by the transcribing agents at the Miami Office.

The daily statistic sheet is extremely important for our reports to the issuing Judge and ultimately to the Court which will litigate the issue of minimization. If you keep a running count of the subject and the nature of the conversations, our efforts in preparing for any hearing or trial will be greatly facilitated.

The Judge of the United States District Court who issued the Interception Order has required us to make periodic reports to him about the progress of the investigation and the manner in which the Interception Order is being executed. When he wants such reports, I am the person he will ask for them. These reports are due (TYPED) EACH SEVENTH DAY.

* * *

The time may come when a search warrant, additional interception orders or some other legal advice or decision may be needed. I am the one you will come to for that assistance.

If I am to perform these tasks, I must be advised of developments daily by the Supervising Agent and of emergencies or fast-breaking events immediately by the monitoring agents. This necessarily means that I must receive a copy of all logs, transcripts and surveillance reports regularly.

You may reach me by phone at the following numbers (305) 350-5435 - Miami office; (305) 443-5073 - home (Miami, Florida). If you can not reach me, call AUSA Mark Schnapp at (305) 350-5438 - Miami Office or (305) 858-9082 - Home (Miami, Florida), or AUSA Jon May at (305) 350-5420 - Miami Office or (305) 652-8060 - Home (Miami, Florida).

DO NOT HESITATE TO CALL AT ANY TIME OF THE DAY OR NIGHT FOR ADVICE.

ROBERTO MARTINEZ
Assistant United States Attorney
155 South Miami Avenue
Miami, Florida 33130

20-964 O—89——44

ADDITIONAL INSTRUCTIONS FOR AGENTS INVOLVED IN THIS INVESTIGATION

The recordings should be protected from editing or alterations. This requirement of 18 U.S.C. §2518(a) is satisf by adherence to the following procedures:

(a) The original recording should be placed in a sealed envelope, box, or similar container, after making of the duplicate recordings referred to below and kept in the custody of the investigative agency until made available to the Court immediately at the expiration of the period of the order for the Court' sealing.

(b) A chain of custody form should accompany the origina recording. On this form should be a brief statement signed by the supervising agent which identifies:

(1) The order authorizing the recorded interceptions (by number if possible);

(2) The date and time period of the re- corded conversations;

(3) The identity of the primary subjects whose conversations were recorded; and

(4) The place or facility where or over which the recorded communications occurred.

(c) The form should indicate to whom, if anyone, the supervising agent has transferred custody of the original recording, and the date and time of transf Each subsequent transfer, including that to the Cou should be similarly noted on the form.

(d) The agent conducting the recording should mark a label attached to the original tape reel to identif it as corresponding with the accompanying chain of custody form. The date of the recording should also be marked on the label and initialed by the agent.

(e) Each agent signing the chain of custody form should be prepared to testify that the original tape, whil in his custody, was kept from the access of third parties and was not altered in any manner. It is the responsibility of the investigative agency to insure that the original recordings in their custod will be maintained in such a manner as to insure their admissibility in evidence over objections to the integrity of the recordings.

Duplicates of the original tapes of pertinent conversations should be made by the investigative agency for use in the investigation. This necessary procedure, authoriz under 18 U.S.C. §2518(8)(a) should, of course, be done prior to sealing of the original and if technically possible it is suggested it be accomplished simultaneously with the inter- ception and recording of communications on the original tape.

Preparation of Transcripts. A verbatim transcript covering all pertinent, non-privileged communications recorded during the entire period of the interception should be prepared by the supervisory agent and furnished to the supervisory attorney. This transcript should be made and furnished on a daily basis if possible. In the event the supervising agent determines that preparation of a complete transcript on a daily basis would be impracticable due to a heavy volume of intercepted communications or other considerations, he may prepare a daily partial transcript which will be given to the supervisory attorney and used in connection with the investigation or subsequent proceedings and a more complete verbatim transcript of all pertinent conversations should be delivered to the supervisory attorney as soon as possible after the conclusion of the period of interception.

PLEASE PREPARE THESE TRANSCRIPTS ON UNMARKED UNLINED 8 1/2 X 11 inch SIZED PAPER (TYPED). THE AGENT WHO MONITORED THE INTERCEPTED CONVERSATIONS MUST REVIEW BOTH TRANSCRIPTS AND INITIAL THEM ON THE REVERSE SIDE OF EACH PAGE.

Certified to be a true and correct copy of the document on file.
Robert M. Morgan, Clerk
U.S. District Court
Southern District of Florida
By [signature]
Deputy Clerk
Date 1/23/89

Memorandum

EXTRA COPY

To : SAC, MIAMI (195A-22) (PC-1) (P) Date 7/10/85

From : SA WAYNE A. MC DONALD

Subject : INTERNATIONAL LONGSHOREMEN'S ASSOCIATION (ILA),
LOCALS 1416 & 1922;
HOBBS ACT - LABOR;
LMRDA; LMRA;
NARCOTICS;
(OO: MIAMI)

Attached are one copy each of approved affidavit, application and order re captioned matter.

Please assign SDF numbers for the approved sources identified below:

	LOCATION		
P. Lts	TESUR	(305) 861-1479	SDF # 187
P. Cad	TESUR	(305) 947-0818	SDF # 188
Landau	TESUR	(305) 653-0724	SDF # 189
Ramos - Nancy	TESUR	(305) 651-5623	SDF # 190
	TESUR	(305) 861-5034	SDF # 191
City Wall Surfside	TESUR	(305) 861-4863	SDF # 192
	TESUR	(305) 861-4864	SDF # 193
	TESUR	(305) 861-4865	SDF # 194
	TESUR	(305) 861-4866	SDF # 195

SDF # 187 is located at 2000 Biarritz Drive, #207, Miami Beach, Florida; SDF # 188 is located at 4000 N.E. 169th Street, #401, North Miami, Fla; SDF # 189 is located at 20180 N.W. 14th Ct., Miami, Fla; SDF # 190 is located at 270 N.W. 189th Terrace, Miami, Fla; and SDF #s 191, 192, 193, 194 and 195 are located at 9293 Harding Avenue, Surfside, Fla.

1 - 195A-22
1 - 195A-22 SUB AA-1
1 - 195A-22 SUB AA-2
1 - 195A-22 SUB AA-3
1 - 92-2649
1 - 298 / SUB C-26
WAM/
(6)

United States Senate
RM:sg
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 166

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
NO. 412-Hastings

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER AUTHORIZING THE CONTINUED USE OF PEN REGISTER DEVICES

ORDER AUTHORIZING AN EXTENSION FOR THIRTY (30) DAYS OF PEN REGISTER DEVICES

The United States of America having applied for an order authorizing the continued use of pen register devices, and directing the communication common carrier to furnish the information, facilities and technical assistance necessary to unobtrusively accomplish the use of a pen register, and;

It appearing from the application that it has been made in good faith in furtherance of a pending criminal investigation, it is hereby

ORDERED:

A. Pursuant to Federal Rule of Criminal Procedure 57(b), Special Agents of the United States Department of Justice, Federal Bureau of Investigation are authorized to operate and continue to operate the requested registering devices registering telephone numbers originating from and to which calls are made on the following telephones:

TELEPHONE NUMBERS	SUBSCRIBERS
(305) 861-4863 861-4864 861-4865 861-4866 861-5034	City of Surfside 9293 Harding Avenue Surfside, Florida

EXHIBIT
166
HOUSE

(305) 947-0818	Johnny Rivero 4000 N.E. 169th Street Apt. 401 Miami, Florida
(305) 651-5623	Dominick Romano 270 N.W. 189th Terrace Miami, Florida
(305) 653-0724	Patricia L. Gordon 20180 N.W. 14 Ct. Miami, Florida
(305) 861-1479	John P. Tronolone, Jr. 2000 Biarritz Drive, Apt. 207 Miami Beach, Florida

for a period not to exceed thirty (30) days from this order; and

B. Pursuant to Title 28, United States Code, Section 1651(a), All Writs Act, the Southern Bell Telephone Company of Miami, Florida shall forthwith provide Special Agents of the United States Department of Justice, Federal Bureau of Investigation with all of the information, facilities, and technical assistance necessary to accomplish the continued use of the devices to register telephone numbers called from the aforesaid numbers unobtrusively and with a minimum of interference to the telephone service which are the subject of the registering device; and

C. The Southern Bell Telephone Company of Miami, Florida shall be compensated by the applicant at the prevailing rates; and;

D. This order, and the supporting application are sealed and shall remain in the custody of the United States Department of Justice; and that the Southern Bell Telephone Company of Miami, Florida, its agents and its employees shall not disclose to the subscriber, or to any other person, the existence of the

investigation, this application and order; or that a pen register device was used, unless and until otherwise ordered by the Court. And it is

FURTHER ORDERED that, unless sooner renewed, this order will automatically terminate thirty (30) days from today.

DONE AND ORDERED in Miami, Florida, this 15 day of July, 1985.

Alcee L. Hastings
UNITED STATES DISTRICT JUDGE

cc: Assistant United States Attorney (Martinez)

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
S. District of Florida
By Carol Jarello
Deputy Clerk
Date 1-19-89

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

RM:dp

MISCELLANEOUS No. 412-HASTINGS

In the Matter of the Application of the United States for Order Authorizing the Interception of Wire Communications

SEALING ORDER

It is hereby ordered that the within First Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and ordered this 11 day of July, 1985.

UNITED STATES DISTRICT JUDGE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 167

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By Carol Tarrell
Deputy Clerk
Date 1-22-89

Certified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By
Deputy Clerk
Date 7-22-85

EXHIBIT
167
HOUSE

RM:MPS:sg

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412-HASTINGS

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES FOR AN ORDER AUTHORIZING THE INTERCEPTION OF WIRE COMMUNICATIONS

/

FIRST PROGRESS REPORT
July 22, 1985

This report is made pursuant to the Order entered by this Court on July 15, 1985, and covers the period from July 15, 1985 up to and including July 21, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable Alcee Hastings, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN KAHAY, and others as yet unknown.

2. The interception of wire communications on all telephone facilities authorized pursuant to the Court's Order began on July 15, 1985, at 1:00 p.m.

3. I have reviewed the interceptions made pursuant to the Court's Order with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which

have been intercepted since the issuance of the Court's Order. There, may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

4. During the period beginning July 15, 1985, up to and including July 21, 1985, there were the following number of interceptions and minimizations.

	Total # of Telephone Conversations Intercepted	Total # of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. THORGLOND, JR)	48	27
(305) 651-4724 (Residence of KEVIN GORDON)	86	82
(305) 861-4863 (main #)	339	328
861-4864 (sub. #)	247	226
861-4865 (sub. #)	289	264
861-4866 (sub. #)	41	40
861-5034 (sub. #)	181	169
(City of Surfside City Hall)		
(305) 651-5623 (Residence of STEPHEN 23 NAHAY)	48	23
(305) 947-0818 (Residence of Johnny Rivero)	39	32

SUMMARY OF PERTINENT ACTIVITY

1. On July 15, 1985, at 2:39 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557. An unknown male answered the call and identified himself as Willie Nahay. Rivero asked for STEPHEN NAHAY and was advised by Willie Nahay that "STEVE" was not present. Rivero requested that

"STEVE" call him collect in the evening Willie. Nahay confirmed to Rivero that "STEVE" had received the money sent by Rivero. 1/

2. On July 15, 1985, at 10:17 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557, and spoke with STEPHEN NAHAY. NAHAY told Rivero that he will give Rivero three days notice to bring the money up to New York. NAHAY told Rivero that he was dealing with Teddy Brennan, "Head of Longshoremen Union, Headquarters in Washington, D.C." NAHAY further told Rivero that Rivero won't be seeing Brennan, but one of his underlings, and that he guaranteed that Rivero would get on the docks. NAHAY then stated, "can't explain on phone, don't trust this phone I'm on". Later in the conversation NAHAY stated, "when you get here I'll explain." NAHAY further stated that "these people" are bigger "than Rego. Rivero then told NAHAY that his (Rivero's) people don't know Brennan. NAHAY then told Rivero, "Kevin knows Brennan."

3. On July 16, 1985, at 9:24 a.m., Johnny Rivero received an incoming telephone call at his residence telephone (305) 947-0818, from KEVIN GORDON ("WAXY"). Rivero asked WAXY if he knew an individual in New York named Teddy Brennan. WAXY mentioned that the only Brennan he knew was a fight promoter at Madison Square Garden. Rivero asked WAXY if he thought NAHAY was

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1/ During the week of July 8, 1985, FBI Special Agents mailed a cashier's check to STEPHEN NAHAY, 785 Seneca Avenue, Ridgewood Queens, New York, payable to STEPHEN NAHAY, remittitur Johnny Rivero, in the amount of $300. This check was forwarded to NAHAY pursuant to the request to Rivero for expenses to get Rivero into the ILA.

ripping him off. WAXY stated that "STEVE" wouldn't do that. Later on in the conversation WAXY asked Rivero for PEANUTS' phone number. Rivero gave WAXY telephone number 861-1479. Rivero then told WAXY to give PEANUTS the same figure "we gave VANDERWYDE". WAXY further advised Rivero that he had to meet his Tuesday man 2/ and that he was "short". Rivero offered to give WAXY some money as an advance from the $3,000 that WAXY wanted for his assistance in getting Rivero into ILA Local 1922. WAXY then asked for a "yard" and explained that although he owed $150, he would give the shylock $100. WAXY and Rivero then agreed to meet at the Tin Lizzie Restaurant and Lounge at 12:30 p.m.

4. On July 16, 1985, at 6:11 p.m., JOHN P. TRONCOLONE, JR. ("JOHNNY PEANUTS") received an incoming call at his residence telephone, (305) 861-1479, from KEVIN GORDON ("WAXY"). The following is a transcription of the pertinent portion of the telephone conversation:

WAXY (W): How's your phone?

PEANUTS (P): Not too good.

W: OK. I'm up at a place called Murray Franklins.

P. Yeah.

W: At 128th, ah 123rd and Biscayne.

2/ WAXY's "Tuesday man" is the shylock referred to in paragraphs 62 and 64 of Special Agent Geoffrey Santini's Affidavit. This conversation appears to be evidence of the crime of "Extortionate Credit Transactions" (18, U.S.C. §892). The United States will continue to monitor these conversations to determine if GORDON is using the telephone facilities to discuss this crime.

P. Yeah, I know where it is.

W: Can you get up here for a while? I've got a guy who wants to spend some money.

P. Who's that?

W: Friend of mine-Johnny Rivero.

P: Oh, Jesus Christ - I was just getting ready to leave the house. I got to meet somebody.

W.: Can you do any good for this guy or not?

P: Well - it's, right now, there's nothing I can do right now.

W: The guy would still like to shake your hand and have a drink with you.

P: I know, but I gotta go someplace. I really gotta meet somebody, over at the Place for Steak.

W: Ok, allright.

P. So how you been, Wax?

* * *

W: You know I've found your number, because he gave it to me, you know.

P: That's allright. I gave you that number a long time ago.

W: Yeah, but I never used it, you know (laughter).

P: Listen, matter of fact, I've got his number right here, right in front of me-I haven't forgotten about him, but Jesus Christ - 651-5623.

W: Can you call him right back, right now and tell him I talked to you?

P: No. I was just walking out of my house with my wife. Just tell him I'll give him a call tomorrow.

W: Ok babe.

P: Tell him that things are just a little tough right now.

W: Ok.

P: Very slow - people are only working three or four days a week.

W: He doesn't want to hear that.

P: I know.

W: He wants to know the price.

P: Well - that's not the point. The point is that, that you can't...

W: Tell me, tell me a number. Do you know a fella by the name of Brennan, Teddy Brennan, or Terry Brennan, up in New York?

P: Yeah, I know a Bren...yeah.

W: Who is he?

P: He's allright. He's with the union.

W: He is, hah?

P: Yeah.

W: Up there?

P: Up there, up there, up there.

W: Ok, I can't talk to you right now. I'm sure your phone isn't that good, ok...

P: Nah.

W: I'll talk to you later.

P: Allright.

W: Right on.

P: Try to explain it to him that I haven't forgotten, about him. I'll give him a call tomorrow.

W: Ok babe.

P: Bye.

W: Bye.

5. On July 17, 1985, at 10:33 a.m., KEVIN GORDON ("WAXY") placed an outgoing call from (305) 861-4865, to (305) 847-0818 and spoke with Johnny Rivero. Rivero asked WAXY about the meeting with "Peanuts" and WAXY stated that he couldn't talk then; but would meet him later.

6. On July 17, 1985, at 11:02 a.m., telephone number (305) 861-4864 received an incoming telephone call asking for KEVIN GORDON. The caller (an unknown male) was advised by an unknown individual at the City of Surfside City Hall (telephone number (305) 861-4864) that GORDON was in a meeting. The caller left a message for GORDON to call Al Gonzalez 3/ at 868-4508.

7. On July 17, 1985, at 11:26 a.m., KEVIN GORDON ("WAXY") placed an outgoing call from (305) 861-4865, to (305) 868-4508 and spoke with Al Gonzalez. The following is a transcription of the pertinent portion of the telephone conversation.

GONZALEZ (G): Hello.

WAXY (W): Hello Al?

G: Yeah.

W: Kevin Gordon.

3/ Al Gonzalez is the president of the Hotel Employees and Restaurant Employees Union, Local 355, Miami, Florida. NAHAY and WAXY have stated to Rivero that WAXY had been dealing through Gonzalez to get Rivero into ILA Local 1922. See paragraphs 41 and 44 of Special Agent Geoffrey Santini's Affidavit.

G: Hi Kevin.

W: How you doing babe?

G: Pretty good. KEVIN let me ask you something. There's a buddy of mine - works at the hotel, he's got a little problem with the City of Miami, and ah, I know you're not there anymore, but I'm sure you got a lot of....

W: Yeah.

G: ...friends.

W: Uh-huh.

G: This guy, ah, he's willing to kind a get some guy to act as a consultant for him on his problem.

W: Uh-huh.

G: So I thought about you-you know?

W: Uh-huh.

G: He has...

W: What hotel is this?

G: No he works....

W: Ah....

G: No he works at a hotel. He's a member of our union.

W: I see.

G: Now let me tell you, roughly I'll give it to you. You got a minute?

W: Yeah, sure.

G: He has a, a, a duplex on, in the Southwest section. You know 24th a...avenue, somewhere around there.

W: Uh-huh.

G: And it backs up to another property that he owns.

W: Yeah.

G: On one property, he has a nursing, a license for a nursing home.

W: Uh-huh.

G: On the other property he has a license, for a... what they call? These kids that they? Foster home.

W: Day...oh, foster home or day care?

G: No. Foster home.

W: Foster Home. Uh-huh.

G: Now, what he was trying to do, is the fact that he owns both property - they're back to back.

W: Uh-huh.

G: And he owns the property next door, and he owns the other property. He was trying to see if there was a possibility - that he - you know he wanted to change from a foster home to day care because they allow you to have more...

W: Yeah.

G: And he, the, and the only way that he could do it would be if he joined those two properties.

W: Right.

G: Is that a big deal?

W: Joining the two properties is not a big deal. What they would...ah...require, ah.... Al, is that he comes in with a unity of title and a survey showing all the properties.

G: He's got all of that.

W: Yeah.

G: And then, what he, what he, what he, ah...what he wanted to build was like a you know like a....patio, you know across, you know like a roof, you know....

W: Uh-huh.

G: That they could walk from one one, facility to the other, and then have like a, a little patio in the yard that they could sit there and sun themselves and stuff like that, and he has all these plans, you know?

W: Uh-huh.

G: Now, the...ah, the....ah, the people in the license, before they would give him that license for the, for the nursing home.....

W: Yeah.

G: They gotta have, the....ah, ok from the zoning board.

W: I see. Uh-huh.

G: So what I was wondering, I mean, ah....if ah....if you, you know, ah....I'm sure this guy is looking to, to hire....

W: Ah-huh.

G: To hire someone.

W: Yeah. uh-huh.

G: And, that ah, I would have him call you and that he brings this information to you and let you, you know ah....

W: That would be fine. You want me to contact him Al, or should I....

G: I'll have him contact you.

W: Ok. That'll be fine.

G: And, then, you know ah, you know ah....

W: Yeah, I could meet with him and see what he's, well how much, how far he's proceeded, you know, and how much the City already know about it, or not.

G: Yeah, that's the whole thing.

W: Yeah.

G: I, I don't think he, he's gone into it too much because ah, he didn't want to put his foot in it, you know. He's a Cuban guy, and he's a waiter in the banquet department at the Sheraton Hotel.

W: Ah-huh.

G: And off-hand, I, I ah, I had all the information on, but, he will call you and he will give you ah, my name and said that the, my, you know.

W: Yeah.

G: Friend, and that he wants to talk to you about his property.

W: That will be fine.

G: He'll call you at the office here.

W: Ok look, I'm going to be leaving here in a half-an-hour, and ah....

G: Allright, well, we'll have him do it tomorrow.

W: Right. I'm here ah, from about nine to twelve.

G: Allright, I'll tell....and then talk.

W: Ok fine.

G: Thank you captain.

W: Right-oh. Thanks for thinking of me.

G: Allright.

W: Right-oh. Bye.

G: Bye [4/]

4/ On July 17, 1985, in the early afternoon, Rivero met with WAXY at the Big Daddy's Liqour Store, 95th Street and Harding Avenue, Surfside, Florida. During this meeting WAXY stated, inter alia, that during the morning he had received a telephone call from Al Gonzalez. WAXY described Gonzalez as the leader of the hotel and restaurant workers union in the Miami area. WAXY told Rivero that Gonzalez stated that he had a friend who was having some sort of zoning trouble and Gonzalez wanted WAXY to see what he could do about taking care of the zoning problem. WAXY further told Rivero that Gonzalez had gotten his son, Jimmy Gonzalez, into the ILA at the Port of Miami as a checker. The conversation set forth in paragraph 7, supra, appears to be evidence of the crime of "Hobbs Act Extortion" (18, U.S.C. §1951), in connection with obtaining zoning changes, permits, and licenses. The United States will continue to monitor these conversations to determine if GORDON is involved in extortion in connection with zoning permits and licenses.

At approximately 1:30 p.m., WAXY and Rivero departed Big Daddy's Lounge and traveled to the Top Draw Restaurant and Lounge, North Bay Village, Florida.

While en route to the Top Draw Restaurant and Lounge, WAXY and Rivero had a conversation pertaining to a court case involving a female individual named Terry Ahern. (On July 8, 1985, WAXY told Rivero that he could assist Ahern, in exchange for a fee, in reducing or dismissing the charges against her. At that time, WAXY asked Rivero for all the information concerning her court case). Rivero furnished WAXY with the case number of Ahern's previous arrest for Drunk Driving, Disorderly Conduct and Assault on a Police Officer. Rivero gave WAXY a piece of paper bearing the name and date of birth of Terry Ahern as well as the court case number.

During the conversation in the car, WAXY told Rivero that he would contact [illegible] attorney in an attempt to have the attorney "fix the case" or [illegible] the case to be dismissed or somehow dropped. WAXY indicated that Ahern would have to pay a fee for his services. WAXY told Rivero that he could not then identify who would be paid the fee for fixing the Ahern case; however WAXY did tell Rivero that Rivero could be present when the payoff was to be made. WAXY identified the attorney he would approach to fix the Ahern case as the same attorney who handled his DUI case "some time ago" when he was employed at the City of Miami as a Building Inspector. (WAXY had previously told Rivero on May 28, 1985, that he had once been in an accident in a City of Miami car and had paid a witness not to testify against him. See paragraph 64 of Special Agent Geoffrey Santini's Affidavit).

8. On July 17, 1985, at 6:25 p.m., JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS") placed an outgoing telephone call from his residence telephone (305) 861-1479, to telephone number (305) 532-1252, and spoke with Carl (LNU). During the conversation PEANUTS advised Carl (LNU) that a friend of his will get passes on a Carnival Cruise ship.

9. On July 18, 1985, at 8:32 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865, to telephone number (305) 350-7885, and spoke with Dick Whipple. GORDON told Whipple that he was trying to get a hold of Dick Bonehill and asked Whipple for Bonehill's phone number. GORDON stated that he's "got somebody in trouble who may be able to use him, you know." 5/ Whipple stated that he didn't have the number with him, but that he would call GORDON back at (305) 861-4863 when he located that telephone number.

10. On July 18, 1985, at 9:16 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to telephone number (305) 350-7885. GORDON left a message for Dick Whipple to call KEVIN GORDON at 861-4863.

11. On July 18, 1985, at 9:21 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call at (305) 861-4864. GORDON

5/ This conversation and those set forth in paragraphs 10,11 and 12, appear to be evidence of state bribery. State bribery (Florida Laws §§838.014 et seq) has been included in the Court's Order as a predicate offense for R.I.C.O. The United States will continue to monitor these conversations to determine if GORDON and his co-conspirators are committing the crime of bribery (Florida Laws §§838.014 et seq.)

spoke with an individual who identified himself as "WHIP" (believed to be Dick Whipple). The caller gave GORDON the telephone number 661-4519. GORDON then stated that he would "give him a call."

12. On July 18, 1985, at 9:25 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone cal from (305) 861-4865, to telephone number (305) 661-4519. GORDON left a message for Dick Bonehill (believed to be an attorney) to call "KEVIN GORDON. Town of Surfside" 861-4863.

13. On July 18, 1985, at 11:56 a.m., KEVIN GORDON ("WAXY") received an incoming call on telephone number (305) 861-4863. The unknown female caller wanted to make an appointment for Al Gonzalez. GORDON advised the female to call back tomorrow at 9:00 a.m.

14. The above described conversations are merely representative of the kinds of conversations being intercepted pursuant to the Court's Order of July 15, 1985.

15. On July 19, 1985, at 4:05 p.m., monitoring ceased at (305) 947-0818, since Rivero was leaving town and no one would have access to his residence.

16. On July 19, 1985, at 6:00 p.m. thru July 22, 1985, at 7:00 a.m. monitoring was discontinued at the Surfside City Hall telephone facilities since this period included the weekend. Special Agents were instructed not to monitor these facilities unless information was received indicating that the City Hall telephones would be utilized to communicate pertinent conversations. Because of the pattern established during this

seven-day period, it is anticipated, unless circumstances change, that monitoring at City Hall will occur during the hours of 8:00 a.m. to 4:00 p.m. each week day.

17. Since NAHAY has been in New York at (718) 366-8557, as of July 15, 1985, at 2:30 p.m., monitoring of telephone calls ceased at (305) 651-5623, unless the calls were outgoing to (718) 366-8557. This situation remained in effect until a telephone call was intercepted between WAXY GORDON and JOHNNY PEANUTS on July 16, 1985, at 6:11 p.m., on PEANUTS' residence telephone of (305) 861-1479. During that call, PEANUTS indicated that he would contact Rivero at 651-5623. Accordingly, Special Agents were instructed to monitor (305) 651-5623 for incoming calls for NAHAY or Rivero from PEANUTS and to monitor outgoing calls to (718) 366-8557.

18. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communications of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

19. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigation have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore there is a need for the continued interception of wire communications of the named interceptees.

20. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order by this Court.

Respectfully submitted,

STANLEY MARCUS
UNITED STATES ATTORNEY

By: _____
ROBERTO MARTINEZ
Assistant United States Attorney

This report was received and read this 22 day of July, 1985.

_____
UNITED STATES DISTRICT JUDGE

Certified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By _____ Deputy Clerk
Date 1-22-89

Certified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By _____ Deputy Clerk
Date 1-22-89

RM:dp

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412-HASTINGS

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES FOR ORDER AUTHORIZING THE INTERCEPTION OF WIRE COMMUNICATIONS

/

SEALING ORDER

It is hereby ordered that the withing Second Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 29 day of July, 1985.

Alcee L. Hastings
UNITED STATES DISTRICT JUDGE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 168

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By Carol Lawler
Deputy Clerk
Date 1-23-89

EXHIBIT
167
HOUSE

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By M. Fort
Deputy Clerk
Date 2-24-85

PM:MPS:sg

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412-HASTINGS

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES FOR AN ORDER AUTHORIZING THE INTERCEPTION OF WIRE COMMUNICATIONS

/

SECOND PROGRESS REPORT
July 29, 1985

This report is made pursuant to the Order entered by this Court on July 15, 1985, and covers the period from July 22, 1985 up to and including July 28, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable Alcee Hastings, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown.

2. The interception of wire communications on all telephone facilities authorized pursuant to the Court's Order began on July 15, 1985, at 1:00 p.m.

3. I have reviewed the interceptions made pursuant to the Court's Order with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which

have been intercepted during the period from July 22, 1985 up to and including July 28, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

4. During the period beginning July 22, 1985, up to and including July 28, 1985, there were the following number of interceptions and minimizations.

	Total # of Telephone Conversations Intercepted	Total # of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN R. TRONOLONE, JR)	69	56
(305) 652-0724 (Residence of KEVIN GORDON)	123	113
(305) 861-4863 (main #)	258	242
861-4864 (sub. #)	143	139
861-4865 (sub. #)	183	149
861-4866 (sub. #)	41	38
861-5034 (sub. #)	29	29
(City of Surfside City Hall)		
(305) 651-5623 (Residence of STEPHEN SHAY)	36	36
(305) 947-0818 (Residence of Johnny Rivero)	99	60

SUMMARY OF PERTINENT ACTIVITY

5. On July 22, 1985, at 7:44 a.m., an unidentified female (believed to be Judy Tronolone) at (305) 861-1479 received an

incoming call from JOHNNY PEANUTS. PEANUTS informed Judy Tronolone that he was at telephone number (305) 379-3733. 1/

6. On July 22, 1985, at 11:12 a.m., KEVIN GORDON ("MAXY") received on incoming telephone call at (305) 861-4863 from Dick Bonehill (the attorney that GORDON stated he would use to "fix" Ahern's case). Bonehill asked GORDON for information on the girl (Terry Ahern). GORDON stated that he will have the information when his man comes in from Biloxi (Johnny Rivero left town on July 19, 1985 and told GORDON that he was travelling to Biloxi, Mississippi).

7. On July 22, 1985, at 11:38 a.m., KEVIN GORDON ("MAXY") received an incoming telephone call at (305) 861-4863 from Johnny Rivero. Rivero informed GORDON that he was out of town and that he had the information concerning Terry Ahern and would give it to GORDON when he arrived in town "tomorrow". Rivero further

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1/ Telephone number (305) 379-3733 is subscribed to by Contintental Stevedoring Company. Confidential Source 2 (CS-2) advised FBI Special Agent Dennis Lacina on July 23, 1985, of the following: Continental Stevedoring Company ("Continental") is a new company resulting from the merger of Harrington & Company and Eller & Company, former stevedoring companies operating at the Port of Miami. As a result of this merger there arose a conflict between the ILA and the Operating Engineers Union ("OEU"). The conflict stemmed from the replacement of OEU workers by ILA workers on the docks. CS-2 advised that the business agent of OEU learned that Harrington & Company owed the ILA benefit plans approximately $400,000. According to CS-2, prior to the merger the ILA had agreed to overlook this debt; however, (the business agent) threatened to expose this matter to the FBI. CS-2 learned that Neil Harrington thereafter borrowed $400,000 from JOHN P. TRONOLONE, SR. to cover this debt.

Harrington was indicted in the UNIRAC case. His case was severed and Harrington subsequently pled to misdemeanor violations of the Taft-Hartley Act.

informed GORDON that he was putting an amusement deal together and they discussed zoning and licensing problems. GORDON stated that he had not spoken to JOHNNY PEANUTS.

8. On July 22, 1985, at 7:21 p.m., JOHNNY PEANUTS received an incoming call at (305) 861-1479 from BUTCH VANDENWYDE. BUTCH told PEANUTS that he wanted him to be at work by 7:00 a.m. on Tuesday (July 23, 1985).

9. On July 23, 1985, at 10:16 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call at (305) 861-4864 from Dick Bonehill. GORDON advised Bonehill that the "guy (Johnny Rivero) will be coming back to Miami that afternoon. GORDON further stated that he has to have the girl (Terry Ahern) come up with "front money" before anything can be done. Bonehill stated that he will pull the "file" on the "case" while he was at the Justice Building, and review it before he goes any farther. GORDON advised that he can't meet with Bonehill until he has spoken to the "guy" (Johnny Rivero) during the afternoon.

10. On July 23, 1985, at 10:47 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to (305) 350-7885, and spoke with Dick Whipple. GORDON informed Whipple that he was to meet with Dick (Bonehill) at the marina on July 24, concerning something personal, and that he needed to get some information during the afternoon at 3:00 p.m.

11. On July 23, 1985, at 11:25 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call at (305) 861-4863 from Marsha Williams. GORDON informed Williams that he would meet with Juan Gonzalez of the City of Miami zoning commission "tomorrow" and

afterwards he'll be able to advise (FNU) Fernandez of the situation.

12. On July 23, 1985, at 11:33 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to telephone number (305) 945-4999. GORDON asked for Rick and was advised that Rick was out. GORDON left a message that he would not be able to make the 1:00 p.m. meeting with Rick. 2/

13. On July 23, 1985, at 4:52 p.m., JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS") placed an outgoing telephone call from (305) 861-1479 to telephone number (305) 949-5093, and spoke to Nick (LNU). The following is a transcription of the pertinent portion of the telephone conversation:

Nick (LNU) (N): Hello

PEANUTS (JT): Hello

N: Hey, John what's new?

JT: How are you feeling?

N: Good! How are you?

JT: Ah! Soaking wet. I worked under the gantry today.

2/ Telephone number (305) 945-4999 is subscribed to by the New Rocks Shop, at 684 N.E. 167th Street, North Miami Beach. Rick has been identified as Richard William Braham. Braham has an extensive criminal record dating to 1966. Braham has been convicted of Unlawful Use of a Firearm, Impersonating a Federal Officer and Use of a Firearm in the Comission of a Felony. FBI records reflect that Braham is a shylock attached to an individual named Sam Urbana, a known organized crime figure from Chicago involved in shylocking and property crimes in the South Florida area. This conversation appears to involve the crime of "Extortionate Credit Transactions" (18, U.S.C. §892). The United States will continue to monitor these conversations to determine if GORDON, Braham, and others as yet unknown, are committing this crime.

N: Yeah, they take good care of you, don't worry.

JT: Yeah, they take good care of me.

N: They take good care of you.

JT: You know Butch came back today, its his first day back. Right!

N: Yeah.

JT: He, he called me up last night and I had a seven o'clock start and I went in and he says "Jesus Christ" how come you didn't have no time. He says - I told him, well you know, I was owing you for a week or two weeks and he laughed.

N: He told you that?

JT: Yeah.

N: What did he say?

JT He laughed, he said I know it, I know it, then he laughed. All them other son of a bitches have been working Sundays, fifty-sixty hours a week.

N: (Laughs)

JT: Unbelievable! Believe me when I tell you since you left. . .

N: URANGA! Must have four hundred hours.

JT: Since you left, now listen to me this is the truth, today is the first day that I have had overtime and this past week is the first week I've worked four days. I swear to God, I swear to God.

N: That guy URANGA must have two hundred hours.

JT: Who?

N: URANGA one of the cubes.

JT: Ah! Well, not only him, all of them. Even those young kids. That young kid come in to the, the, what's his name? Reyes (PH)

N: Yea!

JT: The plank clerk kid he came in the, -- Oh! You know he is a nice kid and everything -- he come in there the other day and he begging for -- say, says I want a day off I've been working two days straight. He says, "No, I want you on this ship." Can you imagine this?

N: Oh! My God!

JT" Unbelievable! I'm telling you unbelievable

N: Your dead without me.

JT: When are you coming back?

N: Who the fuck knows.

JT: Huh!

N: Soon soon.

JT: Ah! Thank God, that's what I heard, that's what I heard.

N: What did you hear?

JT: Well --- everything is going to be taken care of.

N: Who?

JT: Never mine --- please not on ----

N: Your father?

JT: Yeah.

N: What did he say?

JT: Everything is going to be alright.

N: Tell me on the phone.

JT: I'm telling you -- he said everything we'll be alright. Now, now when you come back I got to sit down with you --- and we are going to take care of this mother fucker -- and you know who I am talking about -- I almost, I almost hit him with a two by four yesterday.

N: Which one now?

JT: The fat guy.

N: The fat guy?

JT: The fat guy.

N: Which one?

JT: Hollen - Jerry Hollered --

N: He's alright guy. What are you going to hit him with a two by four?

JT: He's an alright guy?

N: He's not bad, it ain't him.

JT: It ain't him!

N: Uh-uh.

JT: Well then there is a terrible rumor going around that he is the one that caused all the problems for you--

N: Naw! He didn't cause me no problems kid!

JT: Alright as long as you say so.

N: In telling you it isn't.

JT: Cause I chased him yesterday. I says get away from me -- stay away from me.

N: It aint him.

JT: Alright.

N: I'm telling you, and when I see you I'll tell you who it is.

20-964 O—89——45

JT: Alright, I want you --

N: You just said it on the --- phone

JT: Huh?

N: You just ment...it, you just mentioned it on the phone.

JT: I didn't mention it on the phone.

N: You just mentioned it ---- (pause) it was the ya! ya!

JT: U --- ah! (inaudible)

N: Yeah -- when I see you I will tell you.

JT: Oh! please do now -- cause if there ---

N: It ain't --- the kid Hollered (PH) aint got nothing to do with it.

JT: Oh! ok, because its a bad rumor going around on it.

N: Oh! They are saying that I took money and all that?

JT: Yeah, yeah.

N: That's all bullshit, your father knows the story.

JT: Yeah, that's, that's all that is important to me --- thats all that is important --

N: (inaudible)....if they think I'm going to take five - six hundred from a fucking asshole down there I know they are all stool pigeons.

JT: Right, right -- ok as long as I know everything is going to be taken care of.

N: What did Pop tell you, more importantly?

JT: Well - he said its going to be taken care of... waiting for Art (Arti Coffee) to come back.

N: Yea!

JT: And it will be taken care of, that's all.

N: Did he reach out for me?

JT: Yes, yes, yes.

N: ---I'm talking to you.

JT: -- yes yes.

N: Tell me! Tell me -- fuck the ---- phone I don't give a fuck about the phone.

JT: Nick, Nick.

N: What?

JT: Please I am telling you its going to be taken care of -- please, please didn't I tell you before you got the job -- didn't I tell you --- I says here's money for the job don't worry about it -- remember I don't, I don't, I don't forget. I remember.

N: Well, what are they doing waiting for this other geek (ph) to come back?

JT: Yeah, yeah, yeah.

N: Someday I would like to meet -- are you working?

JT: I'm not working, I'm home now. I just got home.

N: --- I mean during the week.

JT: Well I'm trying to get as much time -- tomorrow will be my fourth day and...hope that I work Thursday and Friday -- even the weekend, I don't know.

N: Ok, listen don't --- give that kid Hollered no trouble cause

JT: No, no alright.

N: He's a good fellow.

JT: Ok, as long as you say.

N: He's just a legitimate working guy they given him a bum rap that kid for no reason.

JT: Ok.

N: I'm telling ya --- when I see --- your father knows the story.

JT: Ok, alright. You alright though?

N: I'm hanging on what can I do?

JT: Yeah.

N: If anybody asks how I'm doing, I'm sick.

JT: That's what I've been saying ---- (inaudible) the operation I told you

N: When I tell you this story you will want to go kill people like I wanted to.

JT: Alright.

N: So pops said things would be alright or what?

JT: Yeah, yeah, yeah.

N: Huh?

JT: Yes, they are waiting for Arti to come back.

N: Ok.

JT: Then everything will be ok, how's Julia?

N: How's Julia? I haven't seen her in about three months.

JT: What are you talking about? She was over your house when you were sick.

N: No, she was at the hospital but we broke up.

JT Oh, Oh.

N: But she took care of me.

JT: Oh.

N: It cost me about five hundred -- (laughs)

JT: Oh my God.

N: Alright John -- keep in touch with me.

JT. Of course.

N: I want to meet you.

JT: Ah, don't worry about it ---

N: Me, you, and your father we got to sit down.

JT: Ah he's mad at me again.

N: No, No, No.

JT: --- (laughs)

N: When do you speak to him again?

JT: Ah, about a week ago.

N: Ok.

JT: Don't worry about it. Everything alright. I'm worried about my wife you know she's sick.

N: Oh boy.

JT: Yeah.

N: Ah! We'll see what happens when they come back.

JT: Yeah, ok let me go. I gotta take a shower I'm soaking wet.

JT: Okay bye, bye.

14. On July 23, 1985, at 8:12 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 653-0724 and spoke with KEVIN GORDON ("WAXY"). GORDON informed Rivero that he had an appointment with the attorney (Dick Bonehill) set for "tomorrow". GORDON asked if he had the information, to which Rivero responded that he would get it by "tomorrow". GORDON asked Rivero to call him at the office

"tomorrow" with the information. Rivero asked GORDON if he had been in touch with PEANUTS. GORDON responded that he had tried to reach PEANUTS, but noone had answered the telephone. Rivero asked GORDON to have lunch with PEANUTS and "see what he wants to do." Rivero advised GORDON that he had the literature (information on the amusement deal) and that they needed to get together "tomorrow" afternoon. GORDON explained that there may be some possible hangups, and that needed to talk to the City and the County about zoning. 3/

15. On July 23, 1985, at 8:20 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 945-9204 and spoke with Sharon Poltarez. Rivero asked for stolen AT&T credit card calling numbers. Poltarez stated that the numbers she had were "used up" and that she then didn't have any others available. 4/

3/ On July 16, 1985, Rivero showed GORDON a videotape of an amusement operation and informed GORDON that the developer for the project needed assistance with zoning and licensing. GORDON stated that he could handle any zoning or licensing problems. GORDON further stated that a good location for the project would be in the vicinity of "Diamonds", at 7th Street and 57th Avenue. GORDON stated that "Diamonds" was a novelty place, biggest in the South and that, "We cheated a little to get him in there to begin with, he's a friend of the Mayor's.

The conversation set forth in this paragraph appears to be evidence of the crime of "Hobbs Act Extortion" (18 U.S.C., §1951) in connection with obtaining zoning changes and licenses.

4/ This conversation concerns the crime of using stolen credit cards to place long distance telephone calls and may involve violations of Title 18, U.S.C. §2315. The United States will continue to monitor these conversations to determine the extent of the criminal activity and the identify of the conspirators.

16. On July 24, 1985, at 7:43 a.m., Judy Tronolone (wife of JOHN P. TRONOLONE, JR.), placed an outgoing telephone call from 861-1479 to telephone number (305) 757-2447, and spoke with Wayne (LNU). Judy Tronolone asked Wayne (LNU) to leave $15.00 worth in the mailbox for her. Wayne (LNU) stated that he was out of everything. Judy Tronolone then stated that she need it to go to work. Wayne (LNU) then stated that the door will be open and a playboy magazine will be on the pool table and "it" will be in there. 5/

17. On July 24, 1985, at 8:50 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to telephone number (305) 350-7964, and spoke with Juan Gonzalez. GORDON asked Gonzalez about the effects of the zoning laws on the Santa Barbara Home. Gonzalez stated that the ordinance and code allow only 6 residents in a foster home facility. Gonzalez further advised GORDON that the petitioner had an attorney. GORDON stated that he would contact her and devise a way to get around the ordinance.

18. On July 24, 1985, at 9:29 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to telephone number (305) 261-7306, and spoke with Marsha (LNU). GORDON

5/ It is believed that this conversation involves the purchase and sale of a narcotic, and as such this conversation involves evidence of the following criminal violations: 21, U.S.C., Sections 841(a)(1), 843(b) and 846. The United States will continue to monitor these conversations to determine if Judy Tronolone and her co-conspirators are committing the aforementioned violations.

asked for (FNU) Fernandez regarding the Santa Barbara Home. GORDON informed Marsha that he was aware of the fact that Fernandez had applied for relief from the "City" and that the "City" had responded negatively to his request because of the existing zoning codes. GORDON further stated that he was able to get two of the commissioners to act favorably on his zoning requests but passing would require a favorable vote of four commissioners.

19. On July 24, 1985, at 12:10 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone number (718) 366-8557, and spoke with STEPHEN NAHAY. Rivero informed NAHAY that NAHAY is booked on Eastern Airlines flight #11, arriving "tomorrow". NAHAY advised Rivero that Teddy Gleason, or someone from his office, is the one who will get Rivero into the union. NAHAY then told Rivero not to use Gleason's name on the telephone.

20. On July 24, 1985, at 12:24 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (305) 861-4863, and spoke with KEVIN GORDON ("WAXY"). Rivero asked GORDON about Teddy Gleason. GORDON stated that Gleason has been "at the powerhouse" of the ILA for about 30 years and that he was, or used to be, at the top. GORDON stated that Gleason maintains an office in D.C. and had clout with the Democrats in Washington.

21. On July 24, 1985, at 6:38 p.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 653-0724 to telephone number (305) 861-1479, and spoke with JOHN P. TRONOLONE,

JR. ("JOHNNY PEANUTS"). GORDON asked PEANUTS if they could meet "tomorrow". PEANUTS agreed to meet at 12 noon at the Italian Restaurant across from the Omni. WAXY asked if he could bring Johnny Rivero, and PEANUTS agreed.

22. On July 25, 1985, at 10:28 a.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from KEVIN GORDON ("WAXY"). GORDON informed Rivero that they had a luncheon meeting with JOHNNY PEANUTS at noon. Rivero agreed to pick up GORDON at 11:30 a.m. at the "Dust" (The Gold Dust Lounge). 6/

23. On July 26, 1985, at 10:11 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Marsha (LNU). The following is a transcription of the pertinent portion of the telephone conversation:

6/ On July 25, 1985, at approximately 12:10 p.m., Rivero, GORDON, PEANUTS and Judy Tronolone, met an an Italian Restaurant on Biscayne Boulevard located across the street from the Omni. During the meeting, PEANUTS told Rivero that he wasn't ignoring Rivero, but that work at the docks was currently very slow, "there was no work." PEANUTS stated that in a month or two "things are going to break loose at the docks." PEANUTS stated, however, that if Rivero just wanted to get on the docks he could arrange to get Rivero a pass so Rivero could get in at the docks with him as his helper. PEANUTS informed Rivero that he would contact him on Monday and Tuesday. GORDON then told PEANUTS, "let us know what it is going to cost." PEANUTS replied, "We'll see later, let's see how it turns out." PEANUTS and WAXY talked about WAXY's old friendship with PEANUTS' father. WAXY stated that he once borrowed money from PEANUTS' father "when he was a shylock." During the meeting, PEANUTS advised Rivero that STEPHEN NAHAY was a nice guy, but he's running his mouth too much" and PEANUTS has been hearing from New York that NAHAY is asking everybody in New York about getting Rivero on the docks for money. PEANUTS suggested that the best thing would be for NAHAY "to keep his mouth shut."

GORDON (G): Gordon speaking

Marsha (M): Mr. Gordon, this is Marsha

G: Hi Marsha.

M: How are you?

G: Fine.

M: Ok. I spoke with my dad and he said, ... you told me this was attempted already?

G: Yes. They had already gone to the Chief Zoning Inspector, and a girl named Judy Miller who handles the community based residential facilities for the City of Miami, and to the Zoning Administrator, Mr. Genuardi (phon.)

M: Ok. So you're saying that he already attempted this and he's telling me that he never tried it. He's never gone to anyone. The first step he took was to call you, after speaking with Al Gonzalez, who referred him to you.

G: They're all very familiar with...

M: He doesn't know what's going on because they haven't gone anywhere or done anything.

G: Somebody made an inquiry about this to them, now apparently according to Juan Gonzalez, this had come up before, and through an attorney, now has your father ever had any... how did he know that he couldn't do it if he hadn't contacted anyone before?

M: No, he didn't know he couldn't do it.

G: Oh, well.

M: He, they just, Al Gonzalez told him to talk to you.

G: Well the way I got it from Al is that he had a probelm with the City of Miami and he didn't know how far it went, and he asked me to intervene.

M: Well, I know Santa Barbara Homes attempted something else, but it wasn't this. She wanted, there was another home that was going to be built next to hers, and it was going to be much bigger and they were going to make, like, instead of having two duplexes like she has now she was gonna make just one big home, like 10 or 12 bedrooms and I know she took that to the City of Miami, but that was something totally different. They just declined that. Oh I know that much.

G: Well, that's probably why they were familiar with the restrictions of six, of a total of six residents on the site. The requirements, even though you may be licensed, by (unintelligible) by HRS, the zoning ordinance has restrictions as far as what can be done in a RG zone, you know which is a residential zone, a general residential zone, and it goes back to duplex zoning.

M: Uh-uh-uh.

G: They limit the total amount of residents to six.

M: So you can't have more than six.

G: Well, that's probably why they are familiar with Santa Barbara Homes. Its possible that it came up in the other application or request. I, I just sort of jumped to the conclusion that Fernandez had gone ahead and done something.

M: No, no he hadn't. His wife is the owner of Santa Barbara Homes.

G: Yes.

M: She attempted that, that thing that I just told you about.

G: I see.

M: ...which I didn't know about. Ok, and I know it was declined. They told her it couldn't be.

G: Ok that's why they are familiar with both the name and the location.

M: Ok

G: The same things apply. When she attempted to do that, they're using the same application of the zoning ordinance and the city code.

M: You mean it was the same thing, like having more?

G: Uh huh.

M: So thats, I see, I understand.

G: And even, including the other property, you still can't have more than six on the total site. That was the whole problem.

M: Ok, I see. It has dual parcels. He said "I've never attempted this I haven't gone to anyone," you know. So he was wondering what was wrong.

G: So it was on the other application or request that went in.

M: Thanks for clearing it up.

G: Right

M: Bye

G: Bye

24. On July 26, 1985, at 12:49 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone

number (305) 754-1381, and spoke with KEVIN GORDON ("WAXY"). Rivero informed GORDON that Terry Ahern's case number is 85-15145. GORDON stated that he would try to reach the attorney.

25. On July 26, 1985, at 9:58 p.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818 from an individual named Jack (LNU) in New York. The following is a transcription of the pertinent portion of the telephone conversations:

Jack (J): You know the banking envelopes in the cleaning box? You do anything with them?

NAHAY (N): No whatever was left I gave to Robbie.

J: Somebody put baby powder in there and the pebbles were gone - Wednesday, Thursday - somebody knew. You didn't see the guy in SW? You gotta make a move.

N: Bad?

J: Very weak. Make a move.

N: Tomorrow. I saw Lulu (phonetic) today - I'll call you. How bad was that touched?

J: Bad - separated, all gone.

N: What he get? I left at 4:00 o'clock with her. How much did they use?

J: Doesn't matter.

N: How bad was that touched?

J: You didn't sit with that Bob?

N: No

* * *

N: How much is left?

J: I don't know. Go back to the fish store. 7/

26. On July 26, 1985, at 10:05 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (718) 366-8557, and spoke with Julia. NAHAY informed Julia that Jack thinks somebody "played" with the stuff. An unidentified male (UM) got on the telephone and NAHAY asked if he got his thing. The (UM) stated that he'll "pick it up tonight or tomorrow." NAHAY then asked Julia if anyone touched "them". Julia responded, "How could we get at it?" NAHAY then told Julia to "make out like you don't know nothing". Julia later asked how much was missing, to which NAHAY responded that nothing was missing but mixed.

27. On July 26, 1985, at 10:33p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 947-9279, and spoke with Darby (LNU). NAHAY asked for the number for the guy with the fish place on 163rd. Darby responded that his name was Phil and the number 895-3285. Darby added that Phil had been out of town and that he (Darby) was also trying to get a hold of him on a couple of "deals".

28. On July 27, 1985, at 2:21 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 651-5623, and spoke with Dominick Romano. Romano advised NAHAY that he has seen the same car on several occasions, including outside his home. NAHAY then stated that "they are agents".

7/ It is believed that this conversation concerns a shipment of cocaine that NAHAY transported to New York in later June.

29. On July 27, 1985, at 2:58 p.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from Dick Bonehill. Bonehill advised Rivero that Terry Ahern is facing four misdemeanor charges and read the narrative on the police report. Rivero asked Bonehill if there is someone that he (Bonehill) could get "to take care of this thing". Bonehill stated no, that it would take time and money pursuing the matter legally.

30. On July 27, 1985, at 3:12 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 653-0724, and spoke with KEVIN GORDON. Rivero advised GORDON of his (Rivero's) telephone conversations with Dick Bonehill. During the conversation STEPHEN NAHAY, who was with Rivero, picked up a telephone and engaged in a conversation with GORDON and spoke about gambling in South Florida. 8/

31. On July 27, 1985, at 2:11 p.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 653-0724 from Dick Bonehill. Bonehill advised GORDON that the price to represent the female (Terry Ahern) will be upwards of $2,500 plus expenses of $200 to $300 for a court reporter. Bonehill stated that he wanted to take a deposition from the police officers involved and that because the female was injured at the station, the city will be seeking jail time for her to protect themselves against a possible lawsuit.

8/ The conversation set forth in this parargraph involving gambling may constitute evidence of the crimes of Title 18, U.S.C. §§1084 and 1955. The United States will continue to
(Footnote Continued)

32. The above described conversations are merely representative of the kinds of conversations being intercepted pursuant to the Court's Order dated July 15, 1985.

33. On July 22, 1985, at 8:00 a.m., monitoring commenced at the Surfside City Hall telephone facilities. Monitoring occurred each day during the week during the hours of 8:00 a.m. to 4:00 p.m. On July 25 and 26, 1985, monitoring occurred during the period between 8:00 a.m. to 2:00 p.m. On July 26, 1985, at 2:00 p.m. monitoring at these telephone facilities was discontinued until July 29, 1985, at 8:00 a.m., since this period included the weekend.

34. On July 29, 1985, at 11:30 a.m., it was discovered that the recording device on telephone number (305) 947-0818 had malfunctioned as of midnight July 27, 1985. All conversations which were intercepted during the period of the malfunction were not recorded, although they were otherwise monitored in accordance with the Court's Order. The original logs maintained by the agents during this period have been protected by the FBI as if they were the orginal recording of the intercepted communications.

35. On July 23, 1985, at 5:45 p.m., monitoring resumed at (305) 947-0818, since Rivero arrived in Miami and was residing at (305) 947-0818.

(Footnote Continued)
monitor these conversations to determine the full nature and scope of the involvement of NAHAY, GORDON, and others as yet unknown, in the aforementioned crimes.

indefinitely, unless circumstances change requiring interception pursuant to the Court's Order.

37. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communications of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

38. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigation have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore, there is a need for the continued interception of wire communications of the named interceptees.

36. On July 24, 1985, in the afternoon, monitoring and interception at (305) 651-5623 was erased due to the fact that NAHARY would no longer be residing at this telephone number. This situation will remain

39. The United States respectfully requests this progress report be kept in the custody of the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further Order by this Court.

Respectfully submitted,

STANLEY MARCUS
UNITED STATES ATTORNEY

By: Roberto Martinez
ROBERTO MARTINEZ
Assistant United States Attorney

This report was received and read this 29 day of July, 1985.

Alcee L. Hastings
UNITED STATES DISTRICT JUDGE

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By Carol Tarde
Deputy Clerk
Date 1-23-98

Certified to be a true and correct copy of the original
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By [illegible]
Deputy Clerk
Date 7-29-85

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412-HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR ORDER
AUTHORIZING THE INTERCEPTION OF
WIRE COMMUNICATIONS
_____/

SEALING ORDER

It is hereby ordered that the within Third Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 5 day of August, 1985.

Alcee L. Hastings
UNITED STATES DISTRICT JUDGE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 169

Certified to be a true and correct copy of the document on file.
[illegible], Clerk
U.S. District Court
Southern District of Florida
By Carol Farrell
Deputy Clerk
Date 1-19-89

EXHIBIT
169
HOUSE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412-HASTINGS

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES FOR AN ORDER AUTHORIZING THE INTERCEPTION OF WIRE COMMUNICATIONS

_____/

THIRD PROGRESS REPORT

August 5, 1985

This report is made pursuant to the Order entered by this Court on July 15, 1985, and covers the period from July 29, 1985 up to and including August 4, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable ALCEE HASTINGS, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown.

2. The interception of wire communications on all telephone facilities authorized pursuant to the Court's Order began on July 15, 1985, at 1:00 p.m.

3. I have reviewed the interceptions made pursuant to the Court's Order with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide

the following information concerning relevant conversations which have been intercepted during the period from July 29, 1985, up to and including August 4, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

4. During the period beginning July 29, 1985, up to and including August 4, 1985, there were the following number of interceptions and minimizations.

	Total Number of Telephone Conversations Intercepted	Total Number of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. TRONOLONE, Jr.)	89	72
(305) 653-0724 (Residence of KEVIN GORDON)	69	68
(305) 861-4863 (main #)	241	226
861-4864 (sub. #)	154	144
861-4865 (sub. #)	159	149
861-4866 (sub. #)	30	30
861-5034 (sub. #) (City of Surfside City Hall)	48	48
(305) 651-5623 (Residence of STEPHEN NAHAY)	0	0
(305) 947-0818 (Residence of JOHNNY RIVERO)	88	48

SUMMARY OF PERTINENT
ACTIVITY

5. On July 29, 1985, at 10:31 a.m., KEVIN GORDON ("WAXY"), placed an outgoing telephone call from (305) 861-4865 to (305) 947-0818, and spoke with Johnny Rivero. WAXY stated that he had spoken with the attorney and the attorney requested a $1,000.00 retainer for the Terry Ahern case; $500.00 would be for the depositions and that the trial would cost more. WAXY further stated that he and Rivero could pick up a few bucks. Rivero advised WAXY that he was waiting for PEANUTS to call and WAXY responded that if he (Rivero) did not hear from PEANUTS, to give WAXY a call.

6. On July 29, 1985, at 11:24 a.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818, and spoke with Jack (LNU). NAHAY told Jack (LNU) that he would call him at 10:00 p.m.

7. On July 29, 1985, at 1:33 p.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818 from Jack (LNU). Jack (LNU) stated that something was wrong "when I tested it. It was baby powder; two ounces of baby powder". NAHAY informed Jack (LNU) that JOHNNY PEANUTS would get Johnny (Rivero) on the docks "down here". Jack (LNU) advised NAHAY not to call Jerry "too much", as he was "afraid his line is tapped". NAHAY further stated that the "broad won't come down, about 35, going 33 to 35." NAHAY added that "Joe The Plumber" never left, as Dominic (believed to be Dominick Romano), has a "tail" on him.

Jack (LNU) then stated that the balloon is taking pictures in Bimini and Freeport. Jack (LNU) then gave NAHAY telephone number 371-3555-914-636-9899.

8. On July 29, 1985, at 1:46 p.m., NAHAY placed an outgoing telephone call from (305) 947-0818 to 371-355 5-914-359146369899, and spoke with Jack (LNU). NAHAY told Jack (LNU) "good number". Jack (LNU) responded "Yeah, it's good." NAHAY then advised Jack (LNU) that he was meeting a Brazilian guy tomorrow. Jack (LNU) stated "Package of five and ten."

9. On July 29, 1985, at 2:17 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 652-0083, and spoke with Sharon Poltarez. NAHAY asked Sharon if she had any new numbers, to which she responded "no."

10. On July 29, 1985, at 4:01 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 758-9152, and spoke to Johnny Rivero. NAHAY told Rivero that he would give Joe Simone the money that he owed him. NAHAY asked Rivero who he was with; to which Rivero responded that he was with KEVIN (KEVIN GORDON, "WAXY"), Eddie, and a gray-headed cop named Dick, who knows "what's going on." NAHAY stated that JOHNNY PEANUTS was supposed to call him (NAHAY) about another matter.

11. On July 29, 1985, at 5:58 p.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818, from Johnny Rivero. Rivero told NAHAY that he had met with Joe Simone and Simone told Rivero to tell NAHAY that Simone wanted his money

back. Rivero advised NAHAY that Simone threatened to come after NAHAY and Jack (LNU) if NAHAY left Miami without seeing him (Simone).

12. On July 29, 1985, at 6:11 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to 371-3555-914-3591-4796, and spoke to Penny (LNU). NAHAY asked to speak with "Robbie", and was advised that "Robbie" was not in. NAHAY asked if "Robbie" had picked up the "stuff", and Penny (LNU) said yes. NAHAY then asked if he had plenty, and Penny (LNU) said that he would talk to him ("Robbie") when he gets back.

13. On July 29, 1985, at 7:15 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557, and spoke with Julia. NAHAY spoke about Jack and asked Julia if the "stuff" was good. Julia said it was damp, but that Robbie had put it in the freezer. Julia then explained the procedure concerning the "packages" as follows: "He counted them, put them in a bag, and put them in a drawer. I gave him the money, and he told Robbie they were in the drawer. He put it in the blue thing and sealed it. Then he said 'I'm going out. They're in the drawer.' Then he came in the morning at seven or eight o'clock. I gave him the money. Then Robbie came in and he talked to Robbie and said Mama's got in the drawer. Robbie said, 'I ain't gonna touch it until Sunday.' Robbie said 'Be careful, don't go away.'"

14. On July 29, 1985, at 7:21 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to

(914) 796-2491, and spoke with an unidentified male (UM). NAHAY asked if he got the "stuff." The UM said yes, everything was okay. NAHAY then said not to say anything to Richie, that Richie was the one who was giving the "thing" to Eddie. The UM said "it" seemed a little moist. NAHAY asked the UM if he had tasted "it". The UM replied that he had.

15. On July 29, 1985, at 11:09 p.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818 from Jack (LNU). NAHAY told Jack (LNU) that Joe Simone knew he (NAHAY) was in town. NAHAY asked Jack (LNU) how much outstanding money there was. Jack (LNU) said there was 1700. NAHAY then said that there was about "five grand". NAHAY said he (NAHAY) would give Simone a certified check.

16. On July 30, 1985, at 10:21 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to (305) 947-0818, and spoke with Johnny Rivero. WAXY advised Rivero to not forget the books (WAXY was referring to the "Photon" amusement booklets. This matter was previously referred to on July 23, 1985, at 8:12 p.m. in a telephone conversation between WAXY and Rivero. See paragraph 14 of the Second Progress Report.) Rivero asked if it was one or one and a half. GORDON replied "One and a half, but I'll give him 100." (This conversation refers to the $150.00 Rivero agreed to front to GORDON from his cut of the payoff from Rivero to JOHNNY PEANUTS. GORDON was to use this money to pay the shylock). GORDON then advised that he would call PEANUTS "tonight".

17. On July 30, 1985, at 10:58 a.m., KEVIN GORDON ("WAXY"), received an incoming telephone call at (305) 861-4863 from an unidentified female (UF). WAXY stated that "they" gave him two weeks to raise the money. WAXY then refers to making a payment of $140.00 per week.

18. On July 31, 1985, at 10:39 a.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 279-3838, and spoke with Buffy (LNU). NAHAY told Buffy (LNU) that he wanted to meet with him alone concerning what they had talked about before. They talked about meeting at ZACHARY'S at a later date.

19. On July 31, 1985, at 10:57 a.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 861-4863, and spoke with KEVIN GORDON ("WAXY"). WAXY told Rivero that "we got to get this thing with JOHNNY straight." WAXY added that they (apparently PEANUTS and someone else) were to meet on Friday. WAXY then advised Rivero that he (Rivero) should call PEANUTS Friday night to find out what happened.

20. On July 31, 1985, at 11:11 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to telephone number (305) 661-4519, and spoke with Dick Bonehill. WAXY advised Bonehill that he would meet with someone at one o'clock to get a substantial amount of money from him on a "loan."

21. On July 31, 1985, at 11:53 a.m., KEVIN GORDON ("WAXY"), received an incoming telephone call on (305) 861-4864,

from an unidentified female (UF). WAXY stated that he wanted to find someone with money. WAXY then stated that there was a guy in from Texas who could possibly supply him with "front money." WAXY added that he had run out of places to call for money.

22. On July 31, 1985, at 12:33 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (718) 366-8557, and spoke with Willie Nahay (STEPHEN NAHAY's brother). Willie stated that Jack was in Atlantic City. NAHAY wanted to know if Jack had taken any clothes. They then had a conversation as to the contents of a suitcase that Jack may have taken with him.

23. On July 31, 1985, at 5:24 p.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS") placed an outgoing telephone call from (305) 861-1479, to telephone number (305) 949-5093, and spoke to Nick. PEANUTS asked Nick if he had spoken to Arti (believed to be Arti Coffee, President of ILA Local 1922). Nick said "yeah, yeah" and advised that it did not look good, but did not want to talk further on the telephone. Nick asked how many days he (PEANUTS) was working, and PEANUTS responded four days and that he was bringing home about $380.00. Nick then laughed and said he would "be bringing home the same thing." PEANUTS asked "What are you talking about?" Nick then said "who the fuck knows. I'll tell you when I see you - the Cubans are putting it up my ass pretty good, don't worry about it." (Telephone number (305) 949-5093 is subscribed to by Nicholas Forlano. Department of Labor records reflect that Forlano is a

business agent for ILA Local 1922 and 1922-1. FBI records indicate that Forlano is the son of Nicholas Forlano, Sr. (deceased), former "made" member of the Colombo LCN Family in New York.)

24. On July 31, 1985, at 6:26 p.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS", placed an outgoing telephone call from (305) 861-1479 to telephone number (305) 673-0361, and spoke to an unidentified male (UM). The UM stated that Jerry (Jerry Becerra, business agent of ILA Local 1922), would not call even if he had a ship - "he'd call Hialeah." The UM and PEANUTS then spoke about Nick (believed to be Nick Forlano) and how "they voted against him - they didn't want him...as a delegate." PEANUTS then told the UM that he wanted to tell his father that he (PEANUTS) wanted Nick's job - "I'm waiting for him to come back...cause he's with Dougie. They're in Vegas." The UM and PEANUTS then spoke about the fact that the Cubans were taking over the union.

25. On July 31, 1985, at 7:39 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 651-6096, and spoke with an unidentified male (UM). NAHAY and the UM spoke about Jack from New York, and that Jack went to Atlantic City, New Jersey. NAHAY said that Jack took "five big ones" and was supposed to mail it back to Florida. NAHAY advised that Jack was putting him on the spot; that he (NAHAY) saw the man who he (NAHAY) owed money and that he told the man that he would have "five big ones" for him soon. NAHAY added that he will "blow him away" if something went wrong.

26. On July 31, 1985, at 10:30 p.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818, from an unidentified male (UM). The UM asked NAHAY to meet with him, as he had something to ask him and needed his help - that it could be meaningful "for both of them." NAHAY and the UM then agreed to meet the following day in the afternoon.

27. On August 1, 1985, at 6:24 a.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), placed an outgoing telephone call from (305) 861-1479 to telephone number (305) 379-8694, and spoke with Jerry (believed to be Jerry Becerra, business agent of ILA Local 1922). PEANUTS informed Jerry that he was injured and would not report to work "today."

28. On August 1, 1985, at 11:46 a.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS") placed an outgoing telephone call from (305) 861-1479 to telephone number (305) 379-8694, and asked for Mr. Coffee. PEANUTS was advised that Mr. Coffee was not in.

29. On August 1, 1985, at 12:07 p.m., KEVIN GORDON ("WAXY"), placed an outgoing telephone call from (305) 861-4863 to telephone number (305) 758-9691, and spoke with Gene Perry. GORDON told Perry that he needed three 10,000 square feet buildings for an "amusement thing" for a guy coming from Houston. Perry advised that he may have something to show GORDON and GORDON stated that he had a place to look at in South Miami.

30. On August 1, 1985, at 9:42 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to

telephone number (718) 366-8557, and spoke with Willie Nahay. STEPHEN NAHAY asked if Willie had heard any word from Jack, to which Willie responded that he had not.

31. On August 1, 1985, at 11:53 a.m., KEVIN GORDON ("WAXY"), placed an outgoing telephone call from telephone number (305) 861-4865 to telephone number (305) 350-7958, and spoke with an unidentified female (UF). GORDON advised the UF that Bonehill had a guy "he (Bonehill) wants me to talk with... We may pull a scheme...give me a phoney real estate contract and offer that and try and get some time...if not, tomorrow's the day."

32. On August 2, 1985, at 5:20 p.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), placed an outgoing telephone call from (305) 861-1479 to (305) 949-5093, and spoke with Nick Forlano. PEANUTS and Forlano spoke about work at the docks and how the Cubans were taking over. Forlano asked about PEANUTS' father, and PEANUTS stated that he was "back." Forlano stated that he had to see PEANUTS' father "tomorrow" and "let's see what I can do."

33. On August 2, 1985, at 7:11 p.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS") placed an outgoing telephone call from (305) 861-1479 to telephone number (305) 673-0361, and spoke with an unidentified male (UM). PEANUTS asked for BUTCH VANDERWYDE's telephone number; the UM responded "624-3874." PEANUTS then stated that he had bad news, "Nick said he's not coming back, they don't want him back...not even as a checker... the fucking Cubans axed him. They voted against him to come

back...Electo (believed to be Electo Maurice, a member of ILA Local 1922) had a lot to do with it." The UM then asked "what about...Doug (Rogo) and Tony (Salerno) and those guys?" PEANUTS responded, "Well whatever he did was bad, there's more to it than everything we hear...He said that he'll tell me the story when he sees me...He's gotta go see my father tomorrow." The UM then stated that the Cubans were taking over and asked "who'd... think that they're bigger than Doug and, or Fat Tony (believed to be Anthony "Fat Tony" Salerno) and your father." PEANUTS responded that everyone was in trouble, "Doug may go to the can, Tony is going to the can, my father is getting ready to get indicted again." PEANUTS then stated that Jerry (Jerry Becerra, business agent of ILA Local 1922), has the power. The UM then said that he was thinking of telling Jerry and...Electo that he wanted to work ships "and as a joke say I don't give a fuck what it cost me." PEANUTS and the UM then both stated that "he's liable to give" a price.

34. On August 3, 1985, at 6:33 p.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from STEPHEN NAHAY (NAHAY left for New York on August 2, 1985). Rivero told NAHAY that he (Rivero) heard that Jack was in town. NAHAY asked Rivero to determine if Jack was in fact in town and if he was, he (NAHAY) would return to collect from Jack. NAHAY added that if he could not collect, that he would kill Jack, "blow him away." NAHAY then told Rivero that he would call him tomorrow.

35. On August 4, 1985, at 1:30 p.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from STEPHEN NAHAY. NAHAY informed Rivero that Jack was working on a deal for ten kilos and that he (Jack) would have some people coming down from New York with money and that either Jack or the customers would transport the "stuff" back up North. NAHAY then stated that Jack would conclude the deal within a couple of days and then return to New York.

36. On August 4, 1985, at 6:51 p.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), received an incoming telephone call at (305) 861-1479 from Johnny Rivero. PEANUTS stated that his boss was out of town and that he would get with Rivero at a later date.

37. The above described conversations are merely representative of the kinds of conversations being intercepted pursuant to the Court's Order of July 15, 1985.

38. On July 29, 1985, from approximately 8:00 a.m. to 2:00 p.m., except for a telephone call at 8:57 a.m., none of the telephone conversations on (305) 861-4865 were recorded due to the erroneous use of the recording device by the monitoring agent on duty; although the conversations were otherwise monitored in accordance with the Court's Order. The original logs maintained by the monitoring agent during this period have been protected by the FBI as if they were the original recording of the intercepted communications.

39. On August 1, 1985, from approximately 8:00 a.m. to 2:00 p.m., except for a telephone call at 12:07 p.m., none

of the telephone conversations on (305) 861-5034 were recorded due to the erroneous use of the recording device by the monitoring agent on duty. There were a total of ten conversations, all of which were minimized and otherwise monitored in accordance with the Court's Order. The original logs maintained by the monitoring agent during this period have been protected by the FBI as if they were the original recording of the intercepted communications.

40. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communications of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

41. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigation have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore, there is a need for the continued interception of wire communications of the named interceptees.

42. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order by this Court.

Respectfully submitted,

STANLEY MARCUS
UNITED STATES ATTORNEY

By: Roberto Martinez
ROBERTO MARTINEZ
Assistant United States Attorney

This report was received and read this 5 day of August, 1985.

Alan S. Gold
UNITED STATES DISTRICT JUDGE

Certified to be a true and
correct copy of the
document on file.
[illegible] March, Clerk
[illegible] Court
[illegible] District of Florida
Carol Jarrell
Deputy Clerk
Date 1-19-89

MPS:zbt
IBMIRD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE INTERCEPTION OF
WIRE COMMUNICATIONS
_____/

SEALING ORDER

It is hereby ordered that the within Fourth Progress Report Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 13 day of August, 1985.

Marcus L. Hastings
UNITED STATES DISTRICT JUDGE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 170

Certified to be a true and correct copy of the document on file.
[illegible], Clerk
[illegible] Court
[illegible] Florida
Carol Tandler
Deputy Clerk
Date: 1-19-87

EXHIBIT
170
HOUSE

MPS:zbt
IBMIRD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES FOR AN ORDER AUTHORIZING THE INTERCEPTION OF WIRE COMMUNICATIONS

_____/

FOURTH PROGRESS REPORT
August 12, 1985

This report is made pursuant to the Order entered by this Court on July 15, 1985, and covers the period from August 5, 1985 up to and including August 11, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable ALCEE HASTINGS, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others yet unknown.

2. The interception of wire communications on all telephone facilities authorized pursuant to the Court's Order began on July 15, 1985, at 1:00 p.m.

3. I have reveiwed the interceptions made pursuant to the Court's Order with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which

have been intercepted during the period from August 5, 1985, up to and including August 11, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

4. During the period beginning August 5, 1985, up to and including August 11, 1985, there were the following number of interceptions and minimizations.

	Total Number of Telephone Conversations Intercepted	Total Number of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. TRONOLONE, Jr.)	50	35
(305) 653-0724 (Residence of KEVIN GORDON)	110	99
(305) 861-4863 (main #)	225	213
861-4864 (sub. #)	152	148
861-4865 (sub. #)	129	119
861-4866 (sub. #)	74	70
861-5034 (sub. #) (City of Surfside City Hall)	23	23
(305) 651-5623 (Residence of STEPHEN NAHAY)	0	0
(305) 947-0818 (Residence of JOHNNY RIVERO)	80	37

SUMMARY OF PERTINENT ACTIVITY

5. On August 5, 1985, at 9:34 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to Johnny Rivero at (305) 947-0818. Rivero told WAXY that he had spoken with JOHNNY PEANUTS the previous night. PEANUTS said that he had talked to "his boss" who said he would call back Monday. WAXY asked which boss and Rivero replied that he did not know. WAXY said that he would find out who the boss is. WAXY said that it was not a question of putting Rivero on the docks, just getting him over there. WAXY then stated that he saw a building which would be beautiful for Gino, an old Gold Triangle building. This building was in the heart of Dadeland, on a major artery. WAXY said that he would get the particulars; thinks it would be perfect. WAXY said that the building had everything Rivero wanted and that the zoning would be right also. WAXY said that he was to meet with Bonehill later. Rivero stated that STEVE had called the day before and said that everything is all right. Rivero said that JACK was now in Miami and was trying to negotiate a deal. Rivero said that STEVE hasn't gotten the money and will be in later in the week. According to Rivero, JACK was at the Golden Nugget. Rivero and WAXY then discussed whether JACK would come through and WAXY remarked that JACK may be blowing smoke. Rivero said that they got the O.K. on a boat coming in and mentioned renting a location in Dadeland.

6. On August 5, 1985, at 5:01 p.m., JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS") received an incoming call on (305) 861-1479

from KEVIN GORDON ("WAXY"). The following is a transcription of the pertinent portion of the telephone conversation:

JT: JOHN "PEANUTS" TRONOLONE

KG: KEVIN "WAXY" GORDON

JT: He called me yesterday.

KG: Yeah.

JT: And I told him, you know whats going -- I got to wait till Arti -- I got to -- we are going to have to go out to lunch with him.

KG: With who?

JT: With Arti.

KG: Arti Cavella (phonetic)?

JT: No! Fuck Arti Cavella (phonetic).

KG: Oh! Arti Coffee?

JT: Yeah.

KG: What do we need him for?

JT: What do you mean -- thats who I got to get the OK from.

KG: The OK to take a guy on the port?

JT: Kevin

KG: OK.

JT: Kevin I can take him on the port there is no problem there.

KG: OK . .

JT: But for what he wants to do.

KG: Yeah, OK.

JT: You know.

KG: When can you set it up?

JT: I will try to get it set up, but this guy since he come back

from Hawaii -- he came back Monday or Sunday. He's moving and he in process of moving to a new house.

KG: Yeah.

JT: And you know -- ah -- I want to do it at his discretion. You know what I mean.

KG: Yeah .. Well can we keep in touch?

JT: Yes . . definitely, I told him to call me after five everyday until I can give him the word.

KG: OK . .

JT: I . . I want to meet him for lunch.

KG: OK . . When, ah, when I run into him and tell him its Arti Coffee you got to see.

JT: Am not -- Oh don't tell him anything . . . don't tell him who the guy is . . . don't tell him who the guy is.

KG: We'll at some time he's got to meet him . . . you know . . . you . . . can't we got da. . .

JT: (Unint)

KG: You can handle it without seeing this guy?

JT: What . . . what.

KG: Maybe you and I should meet you know?

JT: What does he want to do he's never given me a clear picture of exactly he wants to do.

KG: He wants to be on the po-t.

JT: Yeah.

KG: He'd like a card of course . . . you know.

JT: Yeah.

KG: OK, obviously that is very . . . very hard to do especially locally.

JT: Right. Right.

KG: OK.

JT: You can just about forget about that.

KG: Yeah OK . . . so meeting with Arti Coffee ain't going to do too much is it?

JT: But what does he want to do.

KG: He wants to be on the port when certain things are coming in, when we ah, open up the shipping line.

JT: Well that's no problem . . . I . . .

KG: Well that's what I told him.

JT: I can bring him . . .

KG: You were going to handle that?

JT: Yeah, I can bring him out anytime he wants.

KG: OK.

JT: Shit . . . Listen tell him that you talked to me and we got it all straightened out. OK.

KG: OK now . . .

JT: Fuck them other guys.

KG: How about the juice?

JT: Huh?

KG: How about ah . . How about the money.

JT: Well what do you think, I don't know what this guys got in mind if he's bringing anything in good . . I . . I want a piece of . . I want a piece of it for us.

KG: I see . . .

JT: You understand?

KG: Yeah, thats good with me.

JT: So you make a figure and let me know.

KG: OK, babe.

JT: OK buddy?

KG: OK.

JT: As far as that goes, if thats all he wants to do, tell him I got the OK.

KG: You got the OK to get him on the port?

JT: Yeah, no problem.

KG: OK . . .

JT: OK, buddy.

KG: OK.

JT: Alright, call me anytime.

KG: I will call you tomorrow and tell you the price.

JT: Call me anytime.

KG: OK, thanks a lot Peanuts.

JT: Goodbye, yeah.

KG: Bye.

7. On August 5, 1985, at 5:26 p.m., JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS") received an incoming call on (305) 861-1479 from Johnny Rivero. PEANUTS asked if KEVIN GORDON had spoken with Rivero yet. Rivero said no. PEANUTS said that he talked to WAXY and that WAXY will tell Rivero all about it.

8. On August 6, 1985, at 10:04 a.m., Johnny Rivero placed an outgoing telephone call on (305) 947-0818 to KEVIN GORDON ("WAXY") at (305) 861-4863. Rivero asked WAXY how things went and WAXY replied, "well". WAXY complained that he was not able

to reach Bonehill. Rivero and WAXY discussed the fact that if things went well with PEANUTS they would not need Bonehill, that Rivero could go "right in." WAXY stated that PEANUTS wants WAXY to come up with a figure for Rivero to pay (to get on the docks). WAXY asked if Rivero wanted him to get in touch with "PENNY" SIZEMORE (believed to be PENDLETON SIZEMORE). WAXY said he would try to arrange a meeting with SIZEMORE at 1:00 p.m.

9. On August 6, 1985 at 10:07 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call on (305) 861-4863 to unknown female (UF) at (305) 945-4999. WAXY left a message with UF that he would be late for his 1:00 p.m. meeting with RICK.

10. On August 6, 1985 at 10:07 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call on (305) 861-4863), and spoke with PENNY (PENDLETON SIZEMORE) at (305) 884-0661. WAXY stated that he would meet with PENNY at Clydes as soon as PENNY's board of directors meeting ended, about 1:00 p.m. PENNY said that it was OK for WAXY to bring someone (Rivero) with him.

11. On August 6, 1985 at 10:12 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call on (305) 861-4863 to Johnny Rivero at (305) 947-0818. WAXY told Rivero that they will meet "the guy" at Clydes at 1:15-1:30 p.m. WAXY and Rivero agreed to meet at the Tin Lizzie at 12:30 p.m. [1/]

[1/] At approximately 11:00 a.m. on this date Johnny Rivero was furnished with a Nagra recorder which was sealed by affiant. This recorder was to be utilized in a meeting between Rivero, KEVIN "WAXY" GORDON, and PENNY SIZEMORE. At approximately 4:30 p.m., Rivero met with affiant at which time the recorder was
(Footnote Continued)

12. On August 7, 1985 at 1:58 p.m., Johnny Rivero placed an

(Footnote Continued)
obtained and was in the same sealed condition. Upon obtaining the Nagra it was determined that the recorder malfunctioned and no conversation was recorded.

A detailed interview of Rivero follows:

On August 6, 1985, Johnny Rivero met with KEVIN "WAXY" GORDON at the Tin Lizzie Restaurant and Lounge in North Miami, Florida at approximately 12:30 p.m. WAXY stated that they (he and Rivero) were going to meet "PENNY" (later identified as PENDLETON K. SIZEMORE) who thinks that it is just a friendly meeting. WAXY added however that the meeting would really be all business. He stated that "PENNY" had called him a few days ago trying to find out where everybody was "drinking these days". WAXY stated that "PENNY" was strong with the unions and in particular George Barone who is now in jail, Al Gonzalez (Hotel & Restaurant Union), Thomas Gleason (ILA), and is a close personal friend of Arti Coffee (ILA Miami).

A short time later Rivero and WAXY drove to Clydes Restaurant and Lounge on 67th Avenue and met with "PENNY". During this car ride WAXY brought up bringing in "dope". WAXY stated that he had a friend by the name of Dennis whom he described as one of the largest dope runners in Miami. This guy could help "us" bring in dope, however, he would meet our guys in Rivero's house and discuss how, where and how much money and amount of dope was involved. Thereafter, Dennis would have his people meet Rivero's people off shore at which time the dope would be given to them. They in turn would deliver the dope to a location in Miami for off loading. Rivero advised that "Bob" from Mississippi had gotten permission to run a few loads on his own, however, the main people still wanted a connection in the port. Rivero stated he advised WAXY that unless "we" could have police protection through North Bay Village or any other place, that he would tell "Bob" that he (Rivero) didn't want to take the chance and possible mess up the main deal in the port.

WAXY stated that he had Mayor Steve Clark in "his pocket" and could possibly approach him (Clark) to help us in off-loading the dope. WAXY added that when Clark was running for office during his last election he (WAXY) collected $40,000.00 from various businesses for his (Clark's) campaign. WAXY stated he went to numerous business people that he had helped in the past, to obtain licenses and other things, for the money. WAXY named one individual who he pressured for $4,000.00. WAXY was upset because he gave the $40,000.00 in cash to Clark on an elevator and Clark reached in the bag and gave him $100.00. WAXY added that Clark is a millionaire, however, he never pays for anything.

At approximately 1:10 p.m., Rivero and WAXY met "PENNY" at the Clydes Restaurant and Lounge. Shortly thereafter WAXY introduced Rivero to PENNY as a close personal friend of his

(Footnote Continued)

outgoing telephone call on (305) 947-0818 to STEPHEN NAHAY at

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(Footnote Continued)
(WAXY).

Rivero stated that after small talk he excused himself from the bar to go to the restroom. Upon his return WAXY stated that we (GORDON, PENNY and Rivero) should have a sitdown lunch with Arti Coffee. PENNY stated that he would set up this meeting to discuss getting Rivero in the union. WAXY then advised PENNY that they have tried through numerous people to get Rivero on the docks without success, such as BUTCH VANDERWYDE. Rivero stated that WAXY then went to the restroom, at which time PENNY stated that he and Arti Coffee are close personal friends and he saw no problems in getting a union card, however, Rivero had to understand that there was very little work at the port right now.

WAXY returned from the restroom at which time he joined the conversation as to getting Rivero a union card. WAXY then raised his ten fingers to Rivero indicating that PENNY could get Rivero a union card. Rivero asked WAXY what he meant by this at which time WAXY said it would cost $10,000.00 for the union card.

PENNY stated that if they should have any problem with Coffee he (PENNY) will go directly to Al Gonzalez for his help and would call Thomas Gleason, head of the ILA in Washington for his help. PENNY added that if it was necessary he would set up a meeting for WAXY with George Barone in prison. Barone is also a close friend of PENNY's and could put Rivero on the docks as a union member. PENNY added that he could also see BUTCH VANDERWYDE's "daddy" in prison for his help in getting a union card.

Thereafter, general discussion was had between all the individuals about drinking and partying in Miami.

Shortly thereafter WAXY and Rivero left PENNY at the bar and drove back to the Tin Lizzie Restaurant and Lounge to pick up WAXY's car. During this ride, Rivero went over the previous discussion with PENNY and WAXY stated that PENNY was very powerful in Miami.

WAXY stated that while at the bar in Clydes, PENNY had introduced him (WAXY) to an individual with whom PENNY had done business with in the past. WAXY stated that this individual had to pay PENNY "front money" to get in the electrical association that PENNY was in charge of in Dade County.

WAXY stated that he had the Police Chief of Surfside in his pocket and if there was any problem he could handle them.

WAXY stated that his buddy Pete Furgerson was the campaign manager for Steve Clark.

His son is a "dead head" however he has a job on the docks. WAXY stated that Furgerson had to pay off an unnamed union (ILA) official to get a card.

Upon arriving at the Tin Lizzie, Rivero and WAXY had a drink at the Tin Lizzie and had a general discussion. Thereafter he

(Footnote Continued)

(718) 366-8557. Rivero told NAHAY that he has a new contact named "PENNY" who is a friend of Coffee's and Gonzalez's. NAHAY said that Coffee would not do anything. Rivero replied that he was sitting on $30,000 and still had not gotten a card. Rivero said that JOHNNY PEANUTS will try to get him a pass to get on the docks. Rivero said that PEANUTS told WAXY to come up with a price for Rivero to pay for the pass.

13. On August 8, 1985 at 9:22 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 and spoke with Dick Bonehill. After asking Bonehill whether his phone was OK, WAXY said that he had a guy who will sign a phony deal. WAXY also said that he is working a deal at the port and that his end was $2,500 but added that it would not be consummated until the following week. WAXY said that he was getting money from Johnny Rivero whose people are from Biloxi. WAXY said that RIVERO wanted to meet Bonehill. Bonehill and WAXY discussed the leak of some information apparently in connection with a zoning problem. WAXY also mentioned that Stout lost $25,000 on the sale of a license.

14. On August 8, 1985 at 10:41 a.m., KEVIN GORDON ("WAXY") made an outgoing telephone call on (305) 861-4865 to "PENNY" SIZEMORE. PENNY told WAXY that he was not able to reach the man they had talked about but that he did speak to someone else. That person wants the name, some background information before

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(Footnote Continued)
and WAXY met at the Voyager Lounge on Biscayne and had general discussions after which Rivero departed and met with affiant.

they talk to anybody, "they got to know for damn sure who they talking about." SIZEMORE instructed WAXY to get him (SIZEMORE) some information concerning where he (Rivero) "comes from and who he knows". After WAXY gives SIZEMORE this information they will have a meeting. WAXY said he would get with him (Rivero) right now.

15. On August 8, 1985 at 10:47 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 and spoke with Johnny Rivero calling from (305) 947-0818. WAXY told Rivero that he spoke to PENNY, and that SIZEMORE wants Rivero to make out a resume -- who you are, who you know -- then they will have to sit down and go over it. WAXY stated that Rivero will have to put down people, places, what he is doing, who he has been with. WAXY stated that they want to be able to call someone and ask them about Rivero. 2/

2/ At 1:30 p.m. Rivero, equipped with a Nagra body recorder, met with WAXY at the Gold Dust lounge. At that time WAXY was seated with two white males, Dick "the cop" and an other unidentified individual. Carol, the barmaid said to WAXY that the City of Miami Inspector had been there for a second time and that they failed the first inspection. WAXY was supposed to talk to the inspector. Carol told WAXY that he did not do a very good job. In general conversation they discussed how payoffs were to be made. The inspector who arrived first was supposed to receive the full pay-off. Thus if the fire inspector got there first he was to get the pay-off even though the building was inspected a second time by someone else. WAXY said that the guy he had to get in touch with about the boat coming in was not in town yet. This individual had connections with the North Bay Village Police and could assist them in getting drugs into North Bay Village. WAXY also said that he had spoken to PENNY that morning but that Penny had not talked with Artie Coffee, but had spoken with someone else. This other person wanted a resume from Rivero so that they could check Rivero out to see if he was o.k. WAXY
(Footnote Continued)

On August 9, 1985, at 6:16 p.m., Johnny Rivero received an incoming call on (305) 947-0818 from KEVIN GORDON ("WAXY") (305) 653-0724. Rivero told WAXY that he had a good resume, that this was it, if he doesn't go with this, he doesn't go. Rivero asked if WAXY could call PENNY that night or the next day. WAXY said he couldn't talk. Rivero said that he understood. WAXY said he could reach PENNY the next day and will call Rivero at 9:00 or 9:30 a.m.

On August 9, 1985, at 6:40 p.m., JUAN P. TRONOLONE, JR., ("JOHNNY PEANUTS") received an incoming telephone call on (305) 861-1479 from Johnny Rivero on (305) 947-0818. PEANUTS assured Rivero that everything was set. PEANUTS told Rivero that KEVIN GORDON ("WAXY") should have called. Rivero replied that KEVIN was not feeling too well and added that he (Rivero) was glad that everything was set. PEANUTS told Rivero to have KEVIN call him and instructs Rivero to bring "it" to him during the week.

On August 11, 1985, at 12:29 p.m., Johnny Rivero received an incoming call on (305) 947-0818 from STEVEN NAHAY. NAHAY said that the guy (who NAHAY is apparently trying to meet with) is very strong - bigger than RAGO. NAHAY said that this individual is with the International and his uncle used to be a dock boss.

(Footnote Continued)
urged Rivero to get that right away because WAXY knew where Penny had breakfast on Saturday morning. WAXY then asked Rivero what was going on with NAHAY. Rivero said that JACK - probably ripped off NAHAY of the ludes, coke and money. WAXY said that NAHAY was the type of guy that you used for muscle rather than brains and that Simone had to be nuts to trust NAHAY with the money.

According to NAHAY in New York the Irish, not the Italians, control the docks.

16. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communication of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

17. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigatican have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore, there is a need for the continued interception of wire communications of the named interceptees.

18. The United States resepctfully reqeusts this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order by this Court.

Certified to be a true and correct copy of the document on file.
Clerk, Florida
Carol Tarello
Deputy Clerk
Date 1-17-89

Respectfully submitted,

STANLEY MARCUS
UNITED STATES ATTORNEY

BY: Jon May
JON MAY
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this 13 day of August, 1985.

Alcee L. Hastings
UNITED STATES DISTRICT JUDGE

This document received one day late pursuant to this Courts authorization. A.L.H.

MPS:zbt
IBMIRD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE INTERCEPTION OF
WIRE COMMUNICATIONS
_____/

SEALING ORDER

It is hereby ordered that the within Fifth Progress Report Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 15 day of August, 1985.

UNITED STATES DISTRICT JUDGE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 171

Certified to be a true and correct copy of the document on file.
Deputy Clerk
Date 1-19-89

EXHIBIT
171
HOUSE

MPS:zbt
IBMIRD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE INTERCEPTION OF
WIRE COMMUNICATIONS
_____/

FIFTH PROGRESS REPORT
August 14, 1985

This report is made pursuant to the Order entered by this Court on July 15, 1985, and covers the period from August 12, 1985 up to and including August 13, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable ALCEE HASTINGS, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others yet unknown.

2. The interception of wire communications on all telephone facilities authorized pursuant to the Court's Order began on July 15, 1985, at 1:00 p.m.

3. I have reviewed the interceptions made pursuant to the Court's Order with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which

have been intercepted during the period from August 12, 1985, up to and including August 13, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

4. During the period beginning August 12, 1985, up to and including August 13, 1985, there were the following number of interceptions and minimizations.

	Total Number of Telephone Conversations Intercepted	Total Number of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. TRONOLONE, Jr.)	10	10
(305) 653-0724 (Residence of KEVIN GORDON)	27	26
(305) 861-4863 (main #)	97	89
861-4864 (sub. #)	48	44
861-4865 (sub. #)	51	45
861-4866 (sub. #)	9	9
861-5034 (sub. #) (City of Surfside City Hall)	17	17
(305) 651-5623 (Residence of STEPHEN NAHAY)	0	0
(305) 947-0818 (Residence of JOHNNY RIVERO)	33	23

SUMMARY OF PERTINENT ACTIVITY

5. On August 12, 1985, at 10:07 a.m. KEVIN GORDON ("WAXY") at (305) 861-4863 received an incoming call from Johnny Rivero. Rivero told WAXY that he has the thing ready (information regarding background names for Penny Sizemore- to get Rivero into the ILA). WAXY told Rivero that he will set up a meeting with Penny and call him back.

6. On August 12, 1985, at 10:09 a.m., KEVIN GORDON ("WAXY") at (305) 861-4865 called Penny Sizemore at (305) 884-0661. An unidentified female answered the telephone, "NECA" (National Electrical Contractors Association). WAXY talked to Penny Sizemore (Pendelton K. Sizemore) and told him that his friend (Johnny Rivero) has the information written down for him. They agreed to meet at Clydes Rest. & Lounge at 1:00 p.m. Sizemore told WAXY that it is understandable that the people want to know who he (Rivero) is. 1/

7. On August 12, 1985, at 10:11 a.m., KEVIN GORDON ("WAXY") at (305) 861-4864 called Johnny Rivero at (305) 947-0818. WAXY told Rivero that he spoke to Penny and that they were to meet him at the same place at 1:15 p.m. (Clydes Rest. & Lounge). WAXY and Rivero were to meet at Tin Lizzie Rest. & Lounge 12:30 p.m., then ride together to meet Sizemore. Rivero

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1/ At approximately 1:20 p.m., FBI agents observed WAXY, Rivero and Sizemore, meet at Clydes. Rivero provided names of individuals that would vouch for Rivero so Sizemore could provide that information to Arti Coffee, ILA president.

told WAXY that he has the information that Penny wants but if the names he is going to give Penny aren't good enough then the deal is off. WAXY told Rivero that he (Penny) is not the one making the decision. Rivero said that Penny will know the names. WAXY told Rivero to write the information down on a piece of paper and the guy (Penny) will take it to the man (later identified through NAGRA recording to be Arti Coffee). WAXY told Rivero that this is getting frightening and that Rivero should give some information of what he has done in the past. Rivero told WAXY the names will be known by Penny and everything will be all right.

8. On August 12, 1985, at 10:17 a.m. Johnny Rivero at (305) 947-0818 called STEPHEN NAHAY at (718) 366-8577. Rivero and STEPHEN NAHAY discussed the fact that NAHAY had been unable to reach JACK DOOLEY. STEVE asked Rivero to go by the Lobster Store on 163 street and talk to Phil 2/ and tell Phil not to deal with JACK (DOOLEY). Rivero asked STEVE if he (STEVE) has done deals with him (Phil) in the past. STEVE said he's good people, he's good. STEVE advised Rivero that he has been unable to reach "HUGHEY". Rivero said that is the last shot, if he can't help us then its over. (This refers to HUGHEY getting Rivero on the docks through the International Union in New York). STEVE then asked Rivero if he should call Archie (Archie Stott-Top Draw

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2/ Phil is identified as Phillip Tanolan, 12000 N.E. 16th Avenue, Trailer Lot M 1103.

Lounge) to do the deal (dope) [3/]. STEVE asked if Rivero's people could bring the stuff in right away. Rivero told STEVE that they could. Rivero asked STEVE for more details but STEVE said his phone is warm, and he would talk to him later.

9. On August 13, 1985, at 9:22 a.m. KEVIN GORDON ("WAXY") at (305) 861-4865 called (305) 945-4999 (The New Hocke Shoppe). WAXY advised an unknown female that he is in Washington, D.C. and will not be able to meet with RICK (BRAHAM) that day.

10. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communications of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

11. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigation have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore, there is a need for the continued interception of wire communications of the named interceptees.

3/ This call deals with Rivero bringing in cocaine in North Bay Village with the protection of the North Bay Village Police Department.

12. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order by this Court.

Respectfully submitted,

STANLEY MARCUS
UNITED STATES ATTORNEY

BY: Jon May
JON MAY
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this 15 day of August, 1985.

Alcee L. Hastings
UNITED STATES DISTRICT JUDGE

The one day extension of this matter is/was authorized by this Court.
Alcee L. Hastings
8/15/85

Certified to be a true and correct copy of the document on file.
[illegible] Marsh, Clerk
[illegible] Court
[illegible]istrict of Florida
Carol Tandler
Deputy Clerk
Date 1-19-89

United States Senate
MPS:RM:sg
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 172

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS
NO. 412-HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

APPLICATION

Jon A. May, Assistant United States Attorney for the Southern District of Florida, being duly sworn, states:

1. I am an investigative or law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code, that is, an attorney authorized by law to prosecute or participate in the prosecution of offenses enumerated in Section 2516 of Title 18, United States Code.

2. Pursuant to Section 2516 of Title 18, United States Code, the Assistant Attorney General in charge of the Land and Natural Resources Division, United States Department of Justice, the Honorable F. Henry Habicht, having been specially designated by the Attorney General, pursuant to Order Number 1088-85 of March 28, 1985, has approved this application for an order authorizing the interception of wire communications. Attached to this application as Exhibit A is a copy of Order Number 1088-85 of March 28, 1985, specially designating the Assistant Attorney General of the Lands and Natural Resources Division to approve the applications for court orders authorizing interception of wire or oral communications. Attached as Exhibit B is a copy of the Memorandum of Authorization approving this application.

EXHIBIT
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HOUSE

3. This application is being made in support of the request by the United States of America for a court order authorizing, for a period necessary to achieve the goals of this investigation, but in no event more than thirty (30) days, the continued interception of wire communications of JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY, and others as yet unknown, and the interception of wire communications of PENDLETON SIEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREI, and others as yet unknown concerning offenses enumerated in Title 18, United States Code, Section 2516. In particular, this application seeks authorization for:

A. the interception of wire communications of JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY, and others as yet unknown, as to those offenses specified in paragraph 4A(1) below, that is, violations of Title 18, United States Code, Sections 1951, 1962(c) and (d), 1963 and Title 29, United States Code, Section 501(c), over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
JOHN P. TRONOLONE, JR. 2000 Biarritz Drive, Apt. #207 Miami Beach, Florida	(305) 861-1479

B. the interception of wire communications of JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", CORNELIUS J.

VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY and others as yet unknown, as to those offenses specified below in paragraph 4A(1), that is, violations of Title 18, United States Code, Sections 1951, 1962(c) and (d), 1963, and Title 29, United States Code, Section 501(c), over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Patricia L. Gordon 20180 N.W. 14 Court Miami, Florida (Residence of KEVIN GORDON)	(305) 653-0724

C. the interception of wire communications of CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY, PENDLETON SIEMORE, and others as yet unknown, as to those offenses specified below in paragraph 4A(1), that is, violations of Title 18, United States Code, Sections 1951, 1962(c) and (d), 1963, and Title 29, United States Code, Section 501(c), and of RICHARD WILLIAM BRAHAM, and others as yet unknown, as to those offenses set forth in paragraph 4A(4), that is violations of Title 18, United States Code, Section 892, over the following telephones:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
City of Surfside 9293 Harding Avenue Surfside, Florida	(305) 861-4863 (main number) 861-4864 (subsidiary number) 861-4865 " 861-4866 "

D. the interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), and others as yet unknown, as to those offenses set forth in paragraph 4A(1), that is,

violations of Title 18, United States Code, Sections 1951, 1962(c) and (d), 1963 and Title 29, United States Code, Section 501(c), and of STEPHEN NAHAY, and others as yet unknown, as to those offenses set forth in paragraphs 4A(1), 4A(2) and 4A(5), that is violations of Title 18, United States Code, Sections 1343, 1951, 1952, 1962(c) and (d), 1963, and Title 21, United States Code, Sections 841(a)(1), 843(b) and 846, and Title 29, United States Code, Section 501(c), and of KEVIN GORDON ("WAXY") and others as yet unknown, as to those offenses set forth in paragraph 4A(1), that is violations of Title 18, United States Code, Sections 1951, 1962(c) and (d), 1963, and Title 29, United States Code, Section 501(c), and of JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), and others as yet unknown, as to those offenses set forth in paragraph 4A(2), that is violations of Title 21, United States Code, Sections 841(a)(1), 843(b) and 846 and Title 18, United States Code, Section 1952, and of JACK LOUIS DOOLEY, SHARON POLTAREZ, and others as yet unknown, as to those offenses set forth in paragraph 4A(5), that is violations of Title 18, United States Code, Section 1343, over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Johnny Rivero 4000 N.E. 169th Street Apt. 401 Miami, Florida	(305) 947-0818

4. I have discussed the circumstances of this application and the offenses set forth herein with Special Agent Geoffrey Santini of the Federal Bureau of Investigation, who has directed

and conducted the investigation herein, and have examined the Affidavit of Special Agent Geoffrey Santini (attached to this Application as Exhibit C and incorporated by reference herein) which alleges facts to show that:

A. There is probable cause to believe that JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", Douglas Daniel Rago, CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY," STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown, have committed, are committing, and are about to commit the below mentioned offenses enumerated in Title 18, United States Code, Section 2516, to wit:

(1) Specifically, as to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, and others as yet unknown:

(a) R.I.C.O. Being associated with an "enterprise" as defined in Section 1961(4) of Title 18, United States Code, that is a group of individuals associated in fact, which enterprise is engaged in, and the activities of which affect, interstate and foreign commerce, comprised of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, and others as yet unknown, and conducting and participating, directly and indirectly, in the conduct of said

enterprise's affairs through a pattern of racketeering activity, and conspiring to do so, all in violation of Sections 1962(c) and (d) and 1963 of Title 18, United States Code, said racketeering activity consisting of the following predicate offenses:

(i) Violations of Section 501(c) of Title 29, United States Code, that is, embezzling, stealing, and unlawfully converting the property or other assets of a labor organization;

(ii) Violations of Section 1951 of Title 18, United States Code, that is, obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion or attempts or conspiring to do so in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922; and

(iii) Acts involving bribery in violation of Florida State Law (Florida Laws §§838.014 et seq.)

(b) Labor Offenses: Violations of Section 501(c) of Title 29, United States Code, by embezzling, stealing and unlawfully converting the property or other assets of a labor organization; and

(c) Hobbs Act Extortion: Violations of Section 1951 of Title 18, United States Code, by obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion, or attempts or conspiring to do so, in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922.

(2) Specifically, as to STEPHEN MAHAY, in addition to those offenses set forth above, and JACK LOUIS DOOLEY, JOE SIMONE,

JULIA MAHAY, WILLIE MAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), and others as yet unknown:

(a) Narcotics Offenses: Violations of Sections 841(a)(1), 843(b) and 846 of Title 21, United States Code, involving the possession with intent to distribute and distribution of controlled substances; the use of communication facilities in committing, causing and facilitating the commission of acts set forth above; and conspiring to commit these offenses; and

(b) Interstate Travel in Aid of Racketeering Enterprises: Violations of Section 1952, of Title 18, United States Code, involving travel or use of facilities in interstate commerce with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of an unlawful business enterprise involving controlled substances, in violation of Title 21, United States Code, and thereafter performing, or attempting to perform acts, to promote, manage, establish, or carry on, or facilitate the promotion, establishment, or carrying on of said unlawful activity.

(3) Specifically, as to KEVIN GORDON ("WAXY"), and others as yet unknown, as to the offense set forth in this paragraph, although there is probable cause to believe that such offense is being committed, and is about to be committed, there is insufficient basis to believe at the present time that the telephone facilities set forth in this application are being used in connection with such offense:

(a) Hobbs Act Extortion: Violation of Section 1951 of Title 18, United States Code, by obstructing, delaying, or

affecting commerce, or the movement of articles or commodities in commerce, by extortion, or attempts or conspiring to do so, in connection with obtaining zoning changes, permits, and licenses.

(4) Specifically, as to RICHARD WILLIAM BRAHAM, and others as yet unknown:

(a) Extortionate Credit Transactions: Violations of Section 892 of Title 18, United States Code, involving the making of extortionate extensions of credit and conspiring to do so.

(5) Specifically, as to STEPHEN NAHAY and JACK LOUIS DOOLEY, in addition to those offenses set forth above, and SHARON POLTAREZ, and others as yet unknown:

(a) Wire Fraud: Violations of Section 1343 of Title 18, United States Code, involving a scheme to obtain free long distance interstate telephone calls by using stolen telephone company credit cards.

B. There is probable cause to believe that the telephone facilities listed in paragraph 3 above, have been, are being, and will be used by JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown, 1/ in connection with the commission of offenses

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1/ As further detailed herein, there is probable cause to believe that Douglas Daniel Rago has committed, is committing, and is about to commit the offenses enumerated in paragraph 4A, (Footnote Continued)

described in paragraphs 4A(1), 4A(2), 4A(4), and 4A(5) as indicated in paragraph 3.

C. There is probable cause to believe that particular wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREI, and others as yet unknown, concerning the above-mentioned offenses will be obtained through the wire interceptions, authorization for which is hereby sought. In particular these wire communications will concern:

(1) As to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, and others as yet unknown, conversations involving illegal labor union activities; unlawful waterfront activities; the prohibited receipt of money or things of value for labor union officers and employees, and persons who purport to control ILA Local 1922; the dates, times, places, amounts and methods of transfer of such illicit payments so received; identification of co-conspirators, and aiders and abettors in causing such illegal payments to be made.

(2) As to STEPHEN NAHAY, JACK LOUIS DOOLEY, JOE SIMONE,

(Footnote Continued)
supra; however, there is insufficient basis to believe at the present time that the telephone facilities set forth in this affidavit are being used by Douglas Daniel Rago in connection with such offenses.

JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), and others as yet unknown, the conversations over telephone (305) 947-0818 will also include arrangements for, plans for, and payments for, the illegal purchase, sale, distribution, and interstate transportation of controlled substances.

(3) As to RICHARD WILLIAM BRAHAM, and others as yet unknown, the conversations over telephone facilities (305) 861-4863, (305) 861-4864, (305) 861-4865, and (305) 861-4866 will also include arrangements for, plans for, and payments for, the extortionate extensions of credit; the dates, times, places, amounts and methods of such payments and extensions of credit; identification of co-conspirators, and aiders and abettors in causing such arrangements.

(4) As to STEPHEN NAHAY, JACK LOUIS DOOLEY, SHARON POLTAREK, and others as yet unknown, the conversations over telephone (305) 947-0818 will also involve a scheme for obtaining free long distance interstate telephone calls by using stolen telephone company credit cards; the dates, times, and methods of such arrangements; identification of co-conspirators, and aiders and abettors involved in such scheme.

5. The conversations sought to be intercepted are expected to constitute admissible evidence of the commission of the above described offenses.

6. As set forth in detail in the affidavit of Special Agent Geoffrey Santini and the applicable attachment, normal investigative procedures either have been tried and have failed

or reasonably appear to be unlikely to succeed if tried or appear to be too dangerous.

7. No previous application to any judge for authorization to intercept, or for approval of interception of, wire or oral communications, involving JOHN P TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, or the facilities or places specified in this application, is known to the affiant, except as set forth below.

8. On July 15, 1985, the Honorable Alcee L. Hastings, United States District Judge, signed an order, fully incorporated herein by reference, authorizing the interception of wire communucations of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, over the following telephones:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
JOHN P. TRONOLONE, JR. 2000 Biarritz Drive Apt. #207 Miami Beach, Florida	(305) 861-1479
Patricia L. Gordon 20180 N.W. 14 Court Miami, Florida (Residence of KEVIN GORDON)	(305) 653-0724
City of Surfside 9293 Harding Avenue Surfside, Florida	(305) 861-4803 (main number) 861-4864 (subsidiary #) 861-4865 " 861-4866 " 861-5034 "

Dominick Romano (305) 651-5623
270 N.W. 189th Terrace
Miami, Florida

Johnny Rivero (305) 947-0818
4000 N.E. 169th Street
Apt. 401
Miami, Florida

9. On May 20, 1976, the Honorable Joe Eaton, United States District Judge for the Southern District of Florida, signed an Order authorizing the interception of RICHARD WILLIAM BRAHAM and Samuel Urbana, Sharon Seidman, William Hickey, Martin Katz, Michael Olmetti, and Jack Kotkin as to offenses involving Title 18, United States Code, Sections 1962, 1963, 2314 and 2315, as to wire communications over the following telephone facilities: (305) 940-9129, subscribed to by Sharon Seidman, 14320 N.E. 5th Avenue, Miami, Florida; (305) 932-9337, subscribed to by Samuel Urbana, Del Prado Apartments, Tower 4, Apt. 504, 18081 Biscayne Boulevard, North Miami Beach, Florida; and (305) 531-2330, subscribed to by Marc's Jewelers, Inc., 439 Arthur Godfrey Road, Miami Beach, Florida. The May 20, 1976, Order further authorized the interception of oral communications of the aforementioned individuals as to the above-mentioned offenses at Marc's Jewelers, Inc., 439 Arthur Godfrey Road, Miami Beach, Florida and at 14320 N.E. 5th Avenue, North Miami, Florida. The oral interception devices were never installed. The wire interceptions were terminated on June 9, 1976. No arrests or indictments resulted as a result of the May 20, 1976 Order.

10. All wire communications intercepted will be minimized in accordance with Chapter 119 of Title 18, United States Code. Interception will be suspended immediately when it is determined

through voice identification, physical surveillance, or otherwise, that none of the named interceptees or any of their confederates, when identified, are participants in the conversation, unless it is determined during the portion of the conversation already overheard, that the conversation is criminal in nature. Even if one or more of the named interceptees or their confederates, when identified, is a participant in a conversation, monitoring will be suspended if the conversation is not criminal in nature or otherwise related to the offenses under investigation. In connection with the request to intercept telephone conversations at the City of Surfside, it is recognized that many telephone calls either to or from that location may involve legitimate governmental functions. Various measures, such as physical surveillance, voice familiarity, and a review of activity on the Surfside City Hall telephone lines will minimize interceptions of non-relevant conversations.

11. Wherefore, your affiant believes that probable cause exists to believe that JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREI, and others as yet unknown, are engaged in the commission of the above-enumerated and described offenses set forth in paragraph 4; that these individuals and others as yet unknown have used and are using the above-described telephones in connection with the commission of the

above-described offenses, as indicated in paragraph 3; that wire communications of these individuals and others as yet unknown concerning these offenses will be intercepted at the above described telephone facilities and that normal investigative procedures appear unlikely to succeed or appear to be too dangerous.

12. On the basis of the allegations contained in this application and on the basis of the affidavit of Special Agent Geoffrey Santini attached hereto, the undersigned requests this court to issue an order, pursuant to the power conferred on it by Section 2518 of Title 18, United States Code, authorizing the Federal Bureau of Investigation to intercept wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON, ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown, to and from the above-described telephone facilities until communications are intercepted which reveal the full and complete manner in which JOHN P. TRONOLONE, JR.("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown, have committed and are committing the above styled offenses and which reveal the identities of each and every

conrederate, and their places of operation, or for a period of thirty (30) days from the date of this order, whichever is earlier. It is requested that said authorization not automatically terminate when the type of communication described in paragraph 4C, supra, has been first obtained, but shall continue until communications are intercepted which reveal the full and complete manner in which the above-named individuals and others as yet unknown have committed and are committing the aforementioned offenses referred to herein, the identities of the participants and co-conspirators in those offenses, their places of operation, the individual acts committed by aiders and abettors and co-conspirators in those offenses, the extent of participation in those offenses by aiders and abettors and co-conspirators, and the full and complete nature and scope of the conspiracy involved, or for a period of thirty (30) days from the date of this order, whichever is earlier.

13. It is further requested that this court issue an order pursuant to Section 2518(4) of Title 18, United States Code, directing the Southern Bell Telephone Company of Miami, Florida, a communication common carrier as defined in Section 2510(10) of Title 18, United States Code, to furnish the agents and employees of the Federal Bureau of Investigation, forthwith, all information, facilities and technical assistance necessary to accomplish the interceptions unobtrusively and with a minimum of interference with the services that such carrier is according the persons whose communications are to be intercepted, the furnishing of such facilities or technical assistance by the

Southern Bell Telephone Company of Miami, Florida, to be compensated for by the Federal Bureau of Investigation at the prevailing rates, and directing that the Southern Bell Telephone Company, its representatives, agents and employees shall not disclose in any manner, directly or indirectly, to the listed subscriber, nor to any other person, the existence of this or any other order in this matter until ordered to do so by this Court.

14. There are current authorizations to install pen register devices on the telephones set forth in paragraph 3 above to record telephone numbers dialed or pulsed from those telephones. Therefore, to simplify the renewal process of these orders and to make them co-extensive with the time period of the authorization to intercept wire communications over those telephone lines, this application also seeks to supercede the Court's prior authorizations for such pen registers on those telephone lines and the entry of new orders co-extensive with the interception order herein sought.

15. Pursuant to Federal Rule of Criminal Procedure 57(b), it is requested that this Court authorize the use of devices to register telephone numbers called from the following telephone facilities:

TELEPHONE NUMBERS	SUBSCRIBERS
(305) 861-4863 861-4864 861-4865 861-4866	City of Surfside 9293 Harding Avenue Surfside, Florida
(305) 947-0818	Johnny Rivero 4000 N.E. 169th Street Apt. 401 Miami, Florida

(305) 653-0724 — Patricia L. Gordon
20180 N.W. 14 Ct.
Miami, Florida
(Residence of KEVIN GORDON)

(305) 861-1479 — JOHN TRONOLONE, JR.
2000 Biarritz Drive, Apt. 207
Miami Beach, Florida

for a period not to exceed thirty (30) days from the date of the Court Order.

14. It is further requested, pursuant to the All Writs Act, Title 28, United States Code, Section 1651(a), that this Court direct Southern Bell Telephone Company, Miami, Florida, a communication common carrier (18, United States Code, Section 2510(10)) to forthwith furnish Special Agents of the Federal Bureau of Investigation with all of the information, facilities, and technical assistance necessary to unobtrusively accomplish the installation and use of the devices to register telephone numbers called from the aforesaid numbers.

Respectfully submitted,

STANLEY MARCUS
UNITED STATES ATTORNEY

By: JON A. MAY
Assistant United States Attorney

...rtified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By [signature] Deputy Clerk
Date 8-15-85

Sworn to and subscribed before me this 15 day of August, 1985, at 10:55, (A.M./P.M.) in Miami, Florida.

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By [signature] Deputy Clerk
1-23-89

UNITED STATES DISTRICT JUDGE

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Office of the Attorney General
Washington, D. C. 20530

SPECIAL DESIGNATION OF ASSISTANT ATTORNEYS GENERAL
TO AUTHORIZE APPLICATIONS FOR COURT ORDERS FOR
INTERCEPTION OF WIRE AND ORAL
COMMUNICATIONS UNDER CHAPTER 119,
TITLE 18, UNITED STATES CODE

Order No. 1088-85

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 5 U.S.C. 301, and 18 U.S.C. 2516, I hereby specially designate the Assistant Attorney General in charge of the Criminal Division, the Assistant Attorney General in charge of the Tax Division, the Assistant Attorney General in charge of the Office of Legal Counsel, the Assistant Attorney General in charge of the Antitrust Division, and the Assistant Attorney General in charge of the Land and Natural Resources Division, to exercise the power conferred by Section 2516 of Title 18, United States Code, to authorize applications to a Federal judge of competent jurisdiction for orders authorizing the interception of wire or oral communications by the Federal Bureau of Investigation or a Federal agency having responsibility for the investigation of the offense as to which such application is made, when such interception may provide evidence of any of the offenses specified in Section 2516 of Title 18, United States Code. Provided, that the Assistant Attorney General in charge of the

EXHIBIT A

Tax Division is authorized to exercise the power herein conferred only when the Assistant Attorney General in charge of the Criminal Division is not in the District of Columbia or is otherwise not available. Provided further, that the Assistant Attorney General in charge of the Office of Legal Counsel is authorized to exercise the power conferred only when both the Assistant Attorney General in charge of the Criminal Division and the Assistant Attorney General in charge of the Tax Division are not in the District of Columbia or are otherwise not available. Provided further, that the Assistant Attorney General in charge of the Antitrust Division is authorized to exercise the power herein conferred only when the Assistant Attorney General in charge of the Criminal Division, the Assistant Attorney General in charge of the Tax Division and the Assistant Attorney General in charge of the Office of Legal Counsel are not in the District of Columbia or are otherwise not available. Provided further, that the Assistant Attorney General in charge of the Land and Natural Resources Division is authorized to exercise the power herein conferred only when the Assistant Attorney General in charge of the Criminal Division, the Assistant Attorney General in charge of the Tax Division, the Assistant Attorney General in charge of the Office of Legal Counsel, and the Assistant Attorney General in charge of the Antitrust Division are not in the District of Columbia or are otherwise not available.

Order No. 931-81 of January 19, 1981 and Order No. 936-81 of February 27, 1981 are revoked.

Date: March 28, 1985
5:10 p.m.

Edwin Meese III

EDWIN MEESE III
Attorney General

Memorandum

FHH:GS:MHK:dat/mkf

Subject	Date
Authorization for Interception Order Application	AUG 1 4 [illegible]

To
Gerald Shur
Senior Associate Director
Office of Enforcement Operations

From
F. Henry Habicht II
Assistant Attorney General
Land and Natural Resources Division

This is with regard to your recommendation that I, the Assistant Attorney General in charge of the Land and Natural Resources Division, authorize an application to a federal judge of competent jurisdiction for an order under Title 18, United States Code, Section 2518, authorizing the continued interception of wire communications for a thirty (30) day period to and from the telephones bearing the numbers (305) 861-1479, subscribed to by John P. Tronolone, Jr. and located at 2000 Biarritz Drive, Apartment 207, Miami Beach, Florida; (305) 653-0724, subscribed to by Patricia L. Gordon and located at 20180 N.W. 14 Court, Miami, Florida; (305) 861-4863, with rotary extensions (305) 861-4864, (305) 861-4865, and (305) 861-4866, subscribed to by the City of Surfside and located at 9293 Harding Avenue, Surfside, Florida; and (305) 947-0818, subscribed to by Johnny Rivero and located at 4000 N.E. 169th Street, Apartment 401, Miami, Florida, in connection with an investigation into possible violations of Title 18, United States Code, Sections 892, 1951, 1952, 1343, 1962(c),(d), and 1963, Title 21, United States Code, Sections 841(a)(1), 843(b), and 846, Title 29, United States Code, Section 501(c), and Florida Laws, Section 838.014 et seq., by John P. Tronolone, Jr., a/k/a "Johnny Peanuts," Douglas Daniel Rago, Cornelius J. Vanderwyde, a/k/a "Butch," Kevin Gordon, a/k/a "Waxy," Stephen Nahay, Pendleton Sizemore, Jack Louis Dooley, Joe Simone, Julia Nahay, Willie Nahay, Darby Last Name Unknown, Dominick Romano, Penny Last Name Unknown, Robbie Last Name Unknown, Richard William Braham, Sharon Poltarez, and others as yet unknown.

By virtue of the authority vested in him by Section 2516 of Title 18, United States Code, the Attorney General of the United States has by Order Number 1088-85, dated March 28, 1985,

specially designated the Assistant Attorney General in charge of the Land and Natural Resources Division to authorize applications for court orders authorizing the interception of wire or oral communications. As the duly appointed Assistant Attorney General in charge of the Land and Natural Resources Division, this power is exercisable by me. WHEREFORE, acting under this delegated power, I hereby authorize the above-described application to be made by any investigative or law enforcement officer of the United States as defined in Section 2510(7) of Title 18, United States Code. The authorization given is intended to apply not only to the target telephone numbers listed above, but to any changed telephone number subsequently assigned to the same cable, pair, and binding post utilized by the target telephones within the thirty (30) day period.

F. Henry Habicht II
Assistant Attorney General
Land and Natural Resource
Division

8/14/85
Date

United States Senate
RM:pct
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 173

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS
NO. 412-HASTINGS

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER AUTHORIZING THE CONTINUED INTERCEPTION OF WIRE COMMUNICATIONS /

AFFIDAVIT IN SUPPORT
OF APPLICATION

Geoffrey Santini, being duly sworn, deposes and says:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) assigned to the Miami, Florida, Division. As such, I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516.

2. I have been a Special Agent of the FBI for approximately ten (10) years. I am familiar with the investigative use of pen registers, Title III devices, and consensual recording equipment. I have received training and experience in the investigation of violations of federal law concerning labor unions and public corruption. I have specialized in investigations concerning the waterfront unions, including the International Longshoremen's Association, companies involved in the waterfront industry, and companies involved in shipping, stevedoring, ship supply, ship

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HOUSE

repair and ship cleaning. Between April 1981 and June 1982, I operated an undercover FBI company, involved in ship cleaning and supplies, to investigate waterfront corruption in New Orleans, Louisiana. This investigation involved labor racketeering and corrupt government officials. I have also lectured about waterfront corruption to other FBI agents at the FBI training academy in Quantico, Virginia.

3. I am the case agent in an investigation being conducted by the Miami field office of the FBI into public and union corruption in connection with the Port of Miami. My affidavit submitted in support of the July 15, 1985 Application and Order is attached hereto as Exhibit "D" and is fully incorporated herein by reference and made a part hereof.

4. On July 15, 1985, the Honorable Alcee L. Hastings, United States District Judge, signed an order, fully incorporated herein by reference, authorizing the interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, over the following telephones:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
JOHN P. TRONOLONE, JR. 2000 Biarritz Drive Apt. #207 Miami Beach, Florida	(305) 861-1479
Patricia L. Gordon 20180 N.W. 14 Court Miami, Florida (Residence of KEVIN GORDON)	(305) 653-0724
City of Surfside 9293 Harding Avenue Surfside, Florida	(305) 861-4803 (main number) 861-4864 (subsidiary #) 861-4865 " 861-4866 "

861-5034

Dominick Romano (305) 651-5623
270 N.W. 189th Terrace
Miami, Florida

Johnny Rivero (305) 947-0818
4000 N.E. 169th Street
Apt. 401
Miami, Florida

5. There is probable cause to believe, as a result of my personal investigation into these matters, including information provided by confidential sources, information furnished to me by other FBI agents, and other law enforcement investigators, and information obtained as a result of wire conversations derived from the electronic surveillance authorized by the Honorable Alcee L. Hastings on July 15, 1985, as set forth below, that JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", Douglas Daniel Rago, CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown, have committed, are committing, and are about to commit the below mentioned offenses enumerated in Title 18, United States Code, Section 2615, to wit:

A. Specifically, as to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, and others as yet unknown:

(1) R.I.C.O. Being associated with an "enterprise" as defined in Section 1961(4) of Title 18, United States Code, that

is, a group of individuals associated in fact, which enterprise is engaged in, and the activities of which affect, interstate and foreign commerce, comprised of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN MAHAY, PENDLETON SIZEMORE, and others as yet unknown, and conducting and participating, directly and indirectly, in the conduct of said enterprise's affairs through a pattern of racketeering activity, and conspiring to do so, all in violation of Sections 1962(c) and (d) and 1963 of Title 18, United States Code, said racketeering activity consisting of the following predicate offenses:

(a) Violations of Section 501(c) of Title 29, United States Code, that is, embezzling, stealing, and unlawfully converting the property or other assets of a labor organization;

(b) Violations of Section 1951 of Title 18, United States Code, that is, obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion or attempts or conspiring so to do so, in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922; and

(c) Acts involving bribery in violation of Florida State Law (Florida Laws §§838.014 et. seq.).

(2) Labor Offenses: Violations of Section 501(c) of Title 29, United States Code, by embezzling, stealing and unlawfully converting the property or other assets of a labor organization; and

(3) Hobbs Act Extortion: Violations of Section 1951 of Title 18, United States Code, by obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion or attempts or conspiring to do so, in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922.

B. Specifically, as to STEPHEN NAHAY, in addition to those offenses set forth above, and JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), and others as yet unknown:

(1) Narcotics Offenses: Violations of Sections 841(a)(1), 843(b) and 846 of Title 21, United States Code, involving the possession with intent to distribute and distribution of controlled substances; the use of communication facilities in committing, causing and facilitating the commission of acts set forth above; and conspiring to commit these above described offenses; and

(2) Interstate Travel in Aid of Racketeering Enterprises: Violations of Section 1952, of Title 18, United States Code, involving travel or use of facilities in interstate commerce with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of an unlawful business enterprise involving controlled substances, in violation of Title 21, United States Code, and thereafter performing, or attempting to perform acts to promote, manage, establish, or carry on, or facilitate the promotion, establishment, or carrying on of said unlawful activity.

C. Specifically, as to KEVIN GORDON ("WAXY"), and others as yet unknown, as to the additional offense set forth in this paragraph, although there is probable cause to believe that such offense has been committed, is being committed, and is about to be committed, there is insufficient basis to believe at the present time that the telephone facilities set forth in this affidavit are being used in connection with such offense.

(1) Hobbs Act Extortion: Violations of Section 1951 of Title 18, United States Code, by obstructing, delaying, or affecting commerce, or the movement of articles affecting commerce, by extortion, or attempts or conspiring to do so, in connection with obtaining zoning changes, permits, and licenses.

D. Specifically, as to RICHARD WILLIAM BRAHAM, and others as yet unknown:

(1) Extortionate Credit Transactions: Violations of Section 892 of Title 18, United States Code, involving the making of extortionate extensions of credit and conspiring to do so.

E. Specifically, as to STEPHEN NAHAY and JACK LOUIS DOOLEY, in addition to those offenses set forth above, and SHARON POLTAREZ, and others as yet unknown:

(1) Wire Fraud: Violations of Section 1343 of Title 18, United States Code, involving a scheme to obtain free long distance interstate telephone calls by using stolen telephone company credit cards.

6. This affidavit is being made in support of the request by the United States of America for a court order authorizing, for a period necessary to achieve the goals of this

investigation, but in no event more than thirty (30) days, the following:

A. the interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, as to those offenses set forth in paragraph 5A over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
JOHN P. TRONOLONE, JR. 2000 Biarritz Drive Apt. #207 Miami Beach, Florida	(305) 861-1479

B. the interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, as to those offenses set forth in paragraph 5A over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Patricia L. Gordon 20180 N.W. 14 Court Miami, Florida (Residence of KEVIN GORDON)	(305) 653-0724

C. the interception of wire communications of CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, and others as yet unknown, as to those offenses set forth in paragraph 5A and of RICHARD WILLIAM BRAHAM, and others as yet unknown, as to those offenses set forth in paragraph 5D, over the following telephones:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
City of Surfside 9293 Harding Avenue Surfside, Florida	(305) 861-4863 (main number) 861-4864 (subsidiary #) 861-4865 " 861-4866 "

D. the interception of wire communications of JOHN P. TRONOLONE, JR., ("JOHNNY PEANUTS"), and others as yet unknown, as to those offenses set forth in paragraph 5A, and STEPHEN NAHAY, and others as yet unknown, as to those offenses set forth in paragraphs 5A, 5B and 5E, and of KEVIN GORDON ("WAXY"), and others as yet unknown, as to those offenses set forth in paragraph 5A, and of JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), and others as yet unknown, as to those offenses set forth in paragraph 5B, and of JACK LOUIS DOOLEY, SHARON POLTAREI, and others as yet unknown, as to those offenses set forth in paragraph 5E, over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Johnny Rivero 4000 N.E. 169 Street Apt. 401 Miami, Florida	(305) 947-0818

7. There is probable cause to believe that the telephone facilities listed in paragraph 6 above, have been, are being, and will be used by JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREI, and others as yet unknown, 1/ in connection with the commission of the

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1/ As further detailed herein and in the affidavit submitted in support of the July 15, 1985 Application and Order, there is (Footnote Continued)

above-described offenses enumerated in Title 18, United States Code, Section 2516, as indicated in paragraph 6.

8. There is probable cause to believe that particular wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREI, and others as yet unknown, concerning the above-mentioned offenses will be obtained through the wire interceptions, authorization for which is herein sought. In particular these wire communications will concern:

A. As to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, and others as yet unknown, conversations involving illegal labor union activities; unlawful waterfront activities; the prohibited receipt of money or things of value by labor union officers and employees, and persons who purport to control ILA Local 1922; the dates, times, places, amounts and methods of transfer of such illicit payments so received; identification of co-conspirators, and aiders and abettors in causing such illegal payments to be made.

(Footnote Continued)
probable cause to believe that Douglas Daniel Rago has committed, is committing, and is about to commit the offenses enumerated in paragraph 5A, supra; however, there is insufficient basis to believe at the present time that the telephone facilities set forth in this affidavit are being used by Douglas Daniel Rago in connection with such offenses.

B. As to STEPHEN NAHAY, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), and others as yet unknown, the conversations over telephone (305) 947-0818 will also include arrangements for, plans for, and payments for, the illegal purchase, sale, distribution, and interstate transportation of controlled substances.

C. As to RICHARD WILLIAM BRAHAM, and others as yet unknown, the conversations over telephone facilities (305) 861-4863, (305) 861-4864, (305) 861-4865, and (305) 861-4866 will also include arrangements for, plans for, and payments for, the extortionate extensions of credit; the dates, times, places, amounts and methods of such payments and extensions of credit; identification of co-conspirators, and aiders and abettors in causing such arrangements.

D. As to STEPHEN NAHAY, JACK LOUIS DOOLEY, SHARON POLTAREZ, and others as yet unknown, the conversations over telephone (305) 947-0818 will also involve a scheme for obtaining free long distance interstate telephone calls by using stolen telephone company credit cards; the dates, times, and methods of such arrangements; identification of co-conspirators, and aiders and abettors involved in such scheme.

9. As set forth in detail, infra, normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or appear to be too dangerous.

10. No previous application to any judge for authorization to intercept, or for approval of interception of, wire or oral

communications involving JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("MAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), BOBBIE (LNU), RICHARD WILLIAM BRAHAM, SHAROW POLTAREI, or the facilities or places specified in this application, is known to the affiant, except as set forth in paragraph 4, supra, and paragraph 11, infra.

11. On May 20, 1976, the Honorable Joe Eaton, United States District Judge for the Southern District of Florida, signed an Order authorizing the interception of RICHARD WILLIAM BRAHAM and Samuel Urbana, Sharon Seidman, William Hickey, Martin Katz, Michael Olmetti and Jack Kotkin as to offenses involving Title 18, United States Code, Sections 1962, 1963, 2314 and 2315, as to wire communications over the following telephone facilities: (305) 940-9129, subscribed to by Sharon Seidman, 14320 N.E. 5th Avenue, Miami, Florida,; (305) 932-9337, subscribed to by Samuel Urbana, Del Prado Apartments, Tower 4, Apt. 504, 18081 Biscayne Boulevard, North Miami Beach, Florida; and (305) 531-2330, subscribed to by Marc's Jewelers, Inc., 439 Arthur Godfrey Road, Miami Beach, Florida. The May 20, 1976, Order further authorized the interception of oral communications of the aforementioned individuals as to the above-mentioned offenses at Marc's Jewelers, Inc., 439 Arthur Godfrey Road, Miami Beach, Florida and at 14320 N.E. 5th Avenue, North Miami, Florida. The oral interception devices were never installed. The wire

interceptions were terminated on June 9, 1976. No arrests or indictments resulted as a result of the May 20, 1976, Order.

12. I submit the following paragraphs, number 14 through 100, in support of my belief that probable cause exists that the aforementioned individuals, and others as yet unknown, use and are continuing to use the above described telephone facilities to commit the offenses enumerated in paragraph 5 supra, as indicated in paragraph 6, supra.

13. All wire conversations set forth below, unless otherwise indicated, are derived from the electronic surveillance authorized by the Honorable Alcee L. Hastings, on July 15, 1985. The intercepted conversations set forth below are based upon a review of the tape recordings and/or the most accurate description of the conversations currently available. Voice identification set forth below is based upon voice recognition and/or context, physical surveillance, and pen register tapes. The interception of wire communications on all telephone facilities authorized pursuant to the Order of the Honorable Alcee L. Hastings of July 15, 1985, began on July 15, 1985, at 1:00 p.m.

PROBABLE CAUSE

14. On July 8, 1985, at approximately 12:50 p.m., Johnny Rivero met with KEVIN GORDON ("WAXY") at the Top Draw Club. WAXY and Rivero discussed whether STEPHEN NAHAY would be able to get Rivero into the ILA and on the Miami "docks" through NAHAY's contacts and connections in New York City. WAXY then told Rivero that he would call BUTCH VANDERWYDE and tell BUTCH that the payoff money would be doubled from "5K to 10K" (meaning from $5,000 to $10,000). WAXY then placed a telephone call, in Rivero's presence, to (305) 379-8694, subscribed to by ILA Local 1922, and spoke to BUTCH. Rivero overheard WAXY tell BUTCH that the note previously given to BUTCH had been increased to double the amount (meaning from $5,000 to $10,000). After the completion of the telephone call WAXY told Rivero that BUTCH did not get excited about the offer.

15. At approximately 2:30 p.m., WAXY and Rivero departed the Top Draw Club in their respective vehicles and travelled to the Ship Ahoy Lounge, located at the Voyager Motel on Biscayne Boulevard and 123rd Street. Shortly after their arrival WAXY and Rivero met with Murray Franklin, owner of the Ship Ahoy Lounge. Murray Franklin greeted WAXY and proceeded to comment to Rivero about Rivero's boots and pulled up Rivero's pants legs to examine the boots. (Rivero has advised the affiant that it was his (Rivero's) impression that Murray Franklin was attempting to ascertain if Rivero was carrying an ankle weapon or recording equipment). During the conversation at the Ship Ahoy Lounge, WAXY told Rivero that he is acquainted with a judge (unnamed) in

Surfside who has been taking graft for years. WAXY further told Rivero that he sees a police chief (unnamed) every morning and that he could get anything he wanted from this police chief.

16. On July 15, 1985, at 2:39 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557. An unknown male answered the call and identified himself as WILLIE NAHAY. Rivero asked for STEPHEN NAHAY and was advised by WILLIE NAHAY that "STEVE" was not present. Rivero requested that "STEVE" call him collect in the "evening". WILLIE NAHAY confirmed to Rivero that "STEVE" had received the money sent by Rivero. 2/

17. On July 15, 1985, at 10:17 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557, and spoke with STEPHEN NAHAY. NAHAY told Rivero that he will give Rivero three days notice to bring the money up to New York. NAHAY told Rivero that he was dealing with Teddy Brennan, 3/ "Head of Longshoremen Union, Headquarters in Washington, D.C." NAHAY further told Rivero that Rivero won't be seeing Brennan, but one of his underlings, and that he guaranteed that Rivero

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2/ During the week of July 8, 1985, FBI Special Agents mailed a cashier's check to STEPHEN NAHAY, 785 Seneca Avenue, Ridgewood Queens, New York, payable to STEPHEN NAHAY, remittitur Johnny Rivero, in the amount of $300. This check was forwarded to NAHAY, pursuant to his request to Rivero, for expenses incurred by him in getting Rivero into the ILA. STEPHEN NAHAY has informed Rivero that Willie Nahay is his brother.

3/ On July 24, 1985, during a telephone conversation between Rivero and STEPHEN NAHAY, NAHAY told Rivero that he was dealing with Teddy Gleason -- not Teddy Brennan. Teddy Gleason is the President of the International Longshoremen's Union.

would get on the docks. NAHAY then stated, "can't explain on phone, don't trust this phone I'm on". Later in the conversation NAHAY stated, "when you get here I'll explain." NAHAY further stated that "these people" are bigger than Rago (Douglas Rago). Rivero then told NAHAY that his (Rivero's) people don't know Brennan. NAHAY then told Rivero, "Kevin (KEVIN GORDON "WAXY") knows Brennan."

18. On July 16, 1985, at 9:24 a.m., Johnny Rivero received an incoming telephone call at his residence telephone (305) 947-0818, from KEVIN GORDON ("WAXY"). Rivero asked WAXY if he knew an individual in New York named Teddy Brennan. WAXY mentioned that the only Brennan he knew was a fight promoter at Madison Square Garden. (The affiant knows of his own knowledge that a "Teddy Brenner" is a fight promoter at Madison Square Garden, New York City.) Rivero asked WAXY if he thought NAHAY was ripping him off. WAXY stated that "STEVE" wouldn't do that. Later on in the conversation WAXY asked Rivero for PEANUTS' phone number. Rivero gave WAXY telephone number 861-1479. Rivero then told WAXY to give PEANUTS the same figure "we gave VANDERWYDE". WAXY further advised Rivero that he had to meet his Tuesday man 4/ and that he was "short". Rivero offered to give WAXY some money as an advance from the $3,000 that WAXY wanted for his assistance in getting Rivero into ILA Local 1922. WAXY then

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4/ WAXY's "Tuesday man" is the shylock referred to in paragraphs 62 and 64 of Special Agent Geoffrey Santini's Affidavit submitted in support of the Application and Order authorized by the Honorable Alcee L. Hastings on July 15, 1985.

asked for a "yard" ($100) and explained that although he owed $150 on the current payment, he would give the shylock $100. WAXY and Rivero then agreed to meet at the Tin Lizzie Restaurant and Lounge at 12:30 p.m.

19. On July 16, 1985, at 6:11 p.m., JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS") received an incoming call at his residence telephone, (305) 861-1479, from KEVIN GORDON ("WAXY"). The following is a transcription of the pertinent portion of the telephone conversation:

WAXY (W): How's your phone?

PEANUTS (P): Not too good.

W: OK. I'm up at a place called Murray Franklins.

P. Yeah.

W: At 128th, ah 123rd and Biscayne.

P. Yeah, I know where it is.

W: Can you get up here for a while? I've got a guy who wants to spend some money.

P. Who's that?

W: Friend of mine-Johnny Rivero.

P: Oh, Jesus Christ - I was just getting ready to leave the house. I got to meet somebody.

W.: Can you do any good for this guy or not?

P: Well - it's, right now, there's nothing I can do right now.

W: The guy would still like to shake your hand and have a drink with you.

P: I know, but I gotta go someplace. I really gotta meet somebody, over at the Place for Steak.

W: Ok, allright.

P. So how you been, Wax?

* * *

W: You know I've found your number, because he gave it to me, you know.

P: That's allright. I gave you that number a long time ago.

W: Yeah, but I never used it, you know (laughter).

P: Listen, matter of fact, I've got his number right here, right in front of me-I haven't forgotten about him, but Jesus Christ - 651-5623. (Telephone number (305) 651-5623 is subscribed to by DOMINICK ROMANO. STEPHEN MAHAY resided at this residence prior to his trip to New York.)

W: Can you call him right back, right now and tell him I talked to you?

P: No. I was just walking out of my house with my wife. Just tell him I'll give him a call tomorrow.

W: Ok babe.

P: Tell him that things are just a little tough right now.

W: Ok.

P: Very slow - people are only working three or four days a week.

W: He doesn't want to hear that.

P: I know.

W: He wants to know the price.

P: Well - that's not the point. The point is that, that you can't...

W: Tell me, tell me a number. Do you know a fella by the name of Brennan, Teddy Brennan, or Terry Brennan, up in New York?

P: Yeah, I know a Bren...yeah.

W: Who is he?

P: He's allright. He's with the union.

W: He is, hah?

P: Yeah.

W: Up there?

P: Up there, up there, up there.

W: Ok, I can't talk to you right now. I'm sure your phone isn't that good, ok...

P: Nah.

W: I'll talk to you later.

P: Allright.

W: Right on.

P: Try to explain it to him that I haven't forgotten, about him. I'll give him a call tomorrow.

W: Ok babe.

P: Bye.

W: Bye.

20. On July 17, 1985, at 10:33 a.m., KEVIN GORDON ("WAXY") placed an outgoing call from (305) 861-4865, to (305) 947-0818 and spoke with Johnny Rivero. Rivero asked WAXY about the meeting with "PEANUTS" and WAXY stated that he couldn't talk then; but would meet him later.

21. On July 17, 1985, at 11:02 a.m., telephone number (305) 861-4864 received an incoming telephone call asking for KEVIN

GORDON. The caller (an unknown male) was advised by an unknown individual at the City of Surfside City Hall (telephone number (305) 861-4864) that GORDON was in a meeting. The caller left a message for GORDON to call Al Gonzalez 5/ at 868-4508.

22. On July 17, 1985, at 11:26 a.m., KEVIN GORDON ("WAXY") placed an outgoing call from (305) 861-4865, to (305) 868-4508 and spoke with Al Gonzalez. The following is a transcription of the pertinent portion of the telephone conversation.

GONZALEZ (G): Hello.

WAXY (W): Hello Al?

G: Yeah.

W: Kevin Gordon.

G: Hi Kevin.

W: How you doing babe?

G: Pretty good. Kevin let me ask you something. There's a buddy of mine - works at the hotel, he's got a little problem with the City of Miami, and ah, I know you're not there anymore, but I'm sure you got a lot of....

W: Yeah.

G: ...friends.

W: Uh-huh.

5/ Al Gonzalez is the president of the Hotel Employees and Restaurant Employees Union, Local 355, Miami, Florida. NAHAY and WAXY have stated to Rivero that WAXY had been dealing through Gonzalez to get Rivero into ILA Local 1922. See paragraphs 41 and 44 of Special Agent Geoffrey Santini's Affidavit submitted in support of the Application and Order authorized by the Honorable Alcee L. Hastings on July 15, 1985.

G: This guy, ah, he's willing to kind a get some guy to act as a consultant for him on his problem.

W: Uh-huh.

G: So I thought about you-you know?

W: Uh-huh.

G: He has...

W: What hotel is this?

G: No he works....

W: Ah....

G: No he works at a hotel. He's a member of our union.

W: I see.

G: Now let me tell you, roughly I'll give it to you. You got a minute?

W: Yeah, sure.

G: He has a, a, a duplex on, in the Southwest section. You know 24th a...avenue, somewhere around there.

W: Uh-huh.

G: And it backs up to another property that he owns.

W: Yeah.

G: On one property, he has a nursing, a license for a nursing home.

W: Uh-huh.

G: On the other property he has a license, for a... what they call? These kids that they? Foster home.

W: Day...oh, foster home or day care?

G: No. Foster home.

W: Foster Home. Uh-huh.

G: Now, what he was trying to do, is the fact that he owns both property - they're back to back.

W: Uh-huh.

G: And he owns the property next door, and he owns the other property. He was trying to see if there was a possibility - that he - you know he wanted to change from a foster home to day care because they allow you to have more...

W: Yeah.

G: And he, the, and the only way that he could do it would be if he joined those two properties.

W: Right.

G: Is that a big deal?

W: Joining the two properties is not a big deal. What they would...ah...require, ah.... Al, is that he comes in with a unity of title and a survey showing all the properties.

G: He's got all of that.

W: Yeah.

G: And then, what he, what he, what he, ah...what he wanted to build was like a you know like a....patio, you know across, you know like a roof, you know....

W: Uh-huh.

G: That they could walk from one one, facility to the other, and then have like a, a little patio in the yard that they could sit there and sun themselves and stuff like that, and he has all these plans, you know?

W: Uh-huh.

G: Now, the...ah, the....ah, the people in the license, before they would give him that license for the, for the nursing home.....

W: Yeah.

G: They gotta have, the....ah, ok from the zoning board.

W: I see. Uh-huh.

G: So what I was wondering, I mean, ah....if ah...if you, you know, ah....I'm sure this guy is looking to, to hire....

W: Ah-huh.

G: To hire someone.

W: Yeah. uh-huh.

G: And, that ah, I would have him call you and that he brings this information to you and let you, you know ah....

W: That would be fine. You want me to contact him Al, or should I....

G: I'll have him contact you.

W: Ok. That'll be fine.

G: And, then, you know ah, you know ah....

W: Yeah, I could meet with him and see what he's, well how much, how far he's proceeded, you know, and how much the City already know about it, or not.

G: Yeah, that's the whole thing.

W: Yeah.

G: I, I don't think he, he's gone into it too much because ah, he didn't want to put his foot in it, you know. He's a Cuban guy, and he's a waiter in the banquet department at the Sheraton Hotel.

W: Ah-huh.

G: And off-hand, I, I ah, I had all the information on, but, he will call you and he will give you ah, my name and said that the, my, you know.

W: Yeah.

G: Friend, and that he wants to talk to you about his property.

W: That will be fine.

G: He'll call you at the office here.

W: Ok look, I'm going to be leaving here in a half-an-hour, and ah....

G: Allright, well, we'll have him do it tomorrow.

W: Right. I'm here ah, from about nine to twelve.

G: Allright, I'll tell....and then talk.

W: Ok fine.

G: Thank you captain.

W: Right-oh. Thanks for thinking of me.

G: Allright.

W: Right-oh. Bye.

G: Bye 6/

6/ On July 17, 1985, in the early afternoon, Rivero met with WAXY at the Big Daddy's Liquor Store, 95th Street and Harding Avenue, Surfside, Florida. During this meeting WAXY stated, inter alia, that during the morning he had received a telephone call from Al Gonzalez. WAXY described Gonzalez as the leader of the hotel and restaurant workers union in the Miami area. WAXY told Rivero that Gonzalez stated that he had a friend who was having some sort of zoning trouble and Gonzalez wanted WAXY to see what he could do about taking care of the zoning problem. WAXY further told Rivero that Gonzalez had gotten his son, Jimmy Gonzalez, into the ILA at the Port of Miami as a checker.
(Footnote Continued)

23. On July 17, 1985, at 6:25 p.m., JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS") placed an outgoing telephone call from his residence telephone (305) 861-1479, to telephone number (305) 532-1252, and spoke with Carl (LNU). During the conversation PEANUTS advised Carl (LNU) that a friend of his will get passes on a Carnival Cruise ship.

24. On July 18, 1985, at 8:32 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865, to

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(Footnote Continued)

At approximately 1:30 p.m., WAXY and rivero departed Big Daddy's Lounge and traveled to the Top Draw Restaurant and Lounge, North Bay Village, Florida.

While en route to the Top Draw Restaurant and Lounge, WAXY and Rivero had a conversation pertaining to a court case involving a female individual named Terry Ahern. (On July 8, 1985, WAXY told Rivero that he could assist Ahern, in exchange for a fee, in reducing or dismissing the charges against her. At that time, WAXY asked Rivero for all the information concerning her court case.) Rivero furnished WAXY with the case number of Ahern's previous arrest for Drunk Driving, Disorderly Conduct and Assault on a Police Officer. Rivero gave WAXY a piece of paper bearing the name and date of birth of Terry Ahern as well as the court case number.

During the conversation in the car, WAXY told Rivero that he would contact an attorney in an attempt to have the attorney "fix the case" or for the case to be dismissed or somehow dropped. WAXY indicated that Ahern would have to pay a fee for his services. WAXY told Rivero that he could not then identify who would be paid the fee for fixing the Ahern case; however WAXY did tell Rivero that Rivero could be present when the payoff was to be made. WAXY identified the attorney he would approach to fix the Ahern case as the same attorney who handled his DUI case "some time ago" when he was employed at the City of Miami as a Building Inspector. (WAXY had previously told Rivero on May 28, 1985, that he had once been in an accident in a City of Miami car and had paid a witness not to testify against him. See paragraph 64 of Special Agent Geoffrey Santini's Affidavit submitted in support of the Application and Order authorized by the Honorable Alcee L. Hastings on July 15, 1985). During the car ride, WAXY offered to employ Rivero as his assistant at the Surfside City Hall. WAXY stated, "I had an assistant . . . and he was sort of like a bagman."

telephone number (305) 350-7885, and spoke with Dick Whipple. GORDON told Whipple that he was trying to get a hold of Dick Bonehill and asked Whipple for Bonehill's phone number. GORDON stated that he's "got somebody in trouble who may be able to use him, you know." Whipple stated that he didn't have the number with him, but that he would call GORDON back at (305) 861-4863 when he located that telephone number.

25. On July 18, 1985, at 9:16 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to telephone number (305) 350-7885. GORDON left a message for Dick Whipple to call KEVIN GORDON at 861-4863.

26. On July 18, 1985, at 9:21 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call at (305) 861-4864. GORDON spoke with an individual who identified himself as "WHIP" (believed to be Dick Whipple). The caller gave GORDON the telephone number 661-4519. GORDON then stated that he would "give him a call."

27. On July 18, 1985, at 9:25 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865, to telephone number (305) 661-4519. GORDON left a message for Dick Bonehill (believed to be an attorney) to call "KEVIN GORDON, Town of Surfside" 861-4863.

28. On July 18, 1985, at 11:56 a.m., KEVIN GORDON ("WAXY") received an incoming call on telephone number (305) 861-4863. The unknown female caller wanted to make an appointment for Al Gonzalez. GORDON advised the female to call back tomorrow at 9:00 a.m.

29. On July 22, 1985, at 7:44 a.m., an unidentified female (believed to be Judy Tronolone, PEANUT's wife) at (305) 861-1479 received an incoming call from JOHNNY PEANUTS. PEANUTS informed Judy Tronolone that he was at telephone number (305) 379-3733. 7/

30. On July 22, 1985, at 11:12 a.m., KEVIN GORDON ("WAXY") received on incoming telephone call at (305) 861-4863 from Dick Bonehill. Bonehill asked GORDON for information on the girl (Terry Ahern). GORDON stated that he will have the information when his man comes in from Biloxi (Johnny Rivero left Miami on July 19, 1985 and told GORDON that he was travelling to Biloxi, Mississippi).

31. On July 22, 1985, at 11:38 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call at (305) 861-4863 from Johnny Rivero. Rivero informed GORDON that he was out of town and that he had the information concerning Terry Ahern and would give it to GORDON when he arrived in town "tomorrow". Rivero further

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7/ Telephone number (305) 379-3733 is subscribed to by Contintental Stevedoring Company. Confidential Source 2 (CS-2) advised FBI Special Agent Dennis Lacina on July 23, 1985, of the following: Continental Stevedoring Company ("Continental") is a new company resulting from the merger of Harrington & Company and Eller & Company, former stevedoring companies operating at the Port of Miami. As a result of this merger there arose a conflict between the ILA and the Operating Engineers Union ("OEU"). The conflict stemmed from the replacement of OEU workers by ILA workers on the docks. CS-2 advised that the business agent of OEU learned that Harrington & Company owed the ILA benefit plans approximately $400,000. According to CS-2 , agent of OEU, threatened to expose this matter to the FBI. CS-2 learned that Neil Harrington of Harrington & Company thereafter borrowed $400,000 from John P. Tronolone to cover this debt.

Harrington was indicted in the UNIRAC case. His case was severed and Harrington subsequently pled to misdemeanor violations of the Taft-Hartley Act.

informed GORDON that he was putting an amusement deal together and they discussed zoning and licensing problems. GORDON stated that he had not spoken to JOHNNY PEANUTS.

32. On July 22, 1985, at 7:21 p.m., JOHNNY PEANUTS received an incoming call at (305) 861-1479 from BUTCH VANDERWYDE. BUTCH told PEANUTS that he wanted him to be at work by 7:00 a.m. on Tuesday (July 23, 1985).

33. On July 23, 1985, at 10:16 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call at (305) 861-4864 from Dick Bonehill. GORDON advised Bonehill that the "guy" (Johnny Rivero) would be coming back to Miami that afternoon. GORDON further stated that he had to have the girl (Terry Ahern) come up with "front money" before anything can be done. Bonehill stated that he will pull the "file" on the "case" while he was at the Justice Building, and review it before he goes any farther. GORDON advised that he can't meet with Bonehill until he has spoken to the "guy" (Johnny Rivero) during the afternoon.

34. On July 23, 1985, at 10:47 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to (305) 350-7885, and spoke with Dick Whipple. GORDON informed Whipple that he was to meet with Dick (Bonehill) at the marina on July 24, concerning something personal, and that he needed to get some information during the afternoon at 3:00 p.m.

35. On July 23, 1985, at 11:25 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call at (305) 861-4863 from Marsha Williams. GORDON informed Williams that he would meet with Juan Gonzalez of the City of Miami zoning commission "tomorrow" and

afterwards he'll be able to advise (FNU) Fernandez of the situation.

36. On July 23, 1985, at 11:33 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to telephone number (305) 945-4999. GORDON asked for Rick and was advised that Rick was out. GORDON left a message that he would not be able to make the 1:00 p.m. meeting with Rick. 8/

37. On July 23, 1985, at 4:52 p.m., JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS") placed an outgoing telephone call from (305) 861-1479 to telephone number (305) 949-5093, and spoke to Nick Forlano. (Telephone number (305) 949-5093 is subscribed to by Nicholas Forlano. Department of Labor records reflect that Forlano is a business agent of ILA Local 1922 and 1922-1. FBI records indicate that Forlano is the son of Nicholas Forlano, Sr. (deceased), former "made" member of the Colombo LCN family in New York.) The following is a transcription of the pertinent portion of the telephone conversation:

Nick (N): Hello

PEANUTS (JT): Hello

N: Hey, John what's new?

8/ Telephone number (305) 945-4999 is subscribed to by the New Hocke Shoppe, at 684 N.E. 167th Street, North Miami Beach. Rick has been identified as RICHARD WILLIAM BRAHAM. BRAHAM has an extensive criminal record dating to 1966. BRAHAM has been convicted of unlawful use of a Firearm in the Commission of a Felony. FBI records reflect that BRAHAM is a shylock attached to an individual named Sam Urbana, a known organized crime figure from Chicago involved in shylocking and property crimes in the South Florida area.

JT: How are you feeling?

N: Good! How are you?

JT: Ah! Soaking wet. I worked under the gantry today.

N: Yeah, they take good care of you, don't worry.

JT: Yeah, they take good care of me.

N: They take good care of you.

JT: You know Butch (BUTCH VANDERWYDE) came back today, its his first day back.

Right!

N: Yeah.

JT: He, he called me up last night and I had a seven o'clock start and I went in and he says "Jesus Christ" how come you didn't have no time. He says - I told him, well you know, I was owing you for a week or two weeks and he laughed.

N: He told you that?

JT: Yeah.

N: What did he say?

JT He laughed, he said I know it, I know it, then he laughed. All them other son of a bitches have been working Sundays, fifty-sixty hours a week.

N: (Laughs)

JT: Unbelievable! Believe me when I tell you since you left. . .

N: URAWCA! Must have four hundred hours.

JT: Since you left, now listen to me this is the truth, today is the first day that I have had overtime and this past week is the first week I've worked four days. I swear to God, I swear to God.

N: That guy URANGA must have two hundred hours.

JT: Who?

N: URANGA one of the "cubes" (Cubans).

JT: Ah! Well, not only him, all of them. Even those young kids. That young kid come in to the, the, what's his name? Reyes (PH)

N: Yea!

JT: The plank clerk kid he came in the, -- Oh! You know he is a nice kid and everything -- he come in there the other day and he begging for -- say, says I want a day off I've been working two days straight. He says, "No, I want you on this ship." Can you imagine this?

N: Oh! My God!

JT" Unbelievable! I'm telling you unbelievable

N: Your dead without me.

JT: When are you coming back?

N: Who the fuck knows.

JT: Huh!

N: Soon soon.

JT: Ah! Thank God, that's what I heard, that's what I heard.

N: What did you hear?

JT: Well --- everything is going to be taken care of.

N: Who?

JT: Never mine --- please not on ----

N: Your father?

JT: Yeah.

N: What did he say?

JT: Everything is going to be alright.

N: Tell me on the phone.

JT: I'm telling you -- he said everything we'll be alright. Now, now when you come back I got to sit down with you --- and we are going to take care of this mother fucker -- and you know who I am talking about -- I almost, I almost hit him with a two by four yesterday.

N: Which one now?

JT: The fat guy.

N: The fat guy?

JT: The fat guy.

N: Which one?

JT: Hollen - Jerry Hollered --

N: He's alright guy. What are you going to hit him with a two by four?

JT: He's an alright guy?

N: He's not bad, it ain't him.

JT: It ain't him!

N: Uh-uh.

JT: Well then there is a terrible rumor going around that he is the one that caused all the problems for you--

N: Naw! He didn't cause me no problems kid!

JT: Alright as long as you say so.

N: In telling you it isn't.

JT: Cause I chased him yesterday. I says get away from me -- stay away from me.

N: It aint him.

JT: Alright.

N: I'm telling you, and when I see you I'll tell you who it is.

JT: Alright, I want you --

N: You just said it on the --- phone

JT: Huh?

N: You just ment...it, you just mentioned it on the phone.

JT: I didn't mention it on the phone.

N: You just mentioned it ---- (pause) it was the ya! ya!

JT: U --- ah! (inaudible)

N: Yeah -- when I see you I will tell you.

JT: Oh! please do now -- cause if there ---

N: It ain't --- the kid Hollered (PH) aint got nothing to do with it.

JT: Oh! ok, because its a bad rumor going around on it.

N: Oh! They are saying that I took money and all that?

JT: Yeah, yeah.

N: That's all bullshit, your father knows the story.

JT: Yeah, that's, that's all that is important to me --- thats all that is important --

N: (inaudible)....if they think I'm going to take five - six hundred from a fucking asshole down there I know they are all stool pigeons.

JT: Right, right -- ok as long as I know everything is going to be taken care of.

N: What did Pop tell you, more importantly?

JT: Well - he said its going to be taken care of... waiting for Art (Arti Coffee, President of ILA Local 1922) to come back.

N: Yea!

JT: And it will be taken care of, that's all.

N: Did he reach out for me?

JT: Yes, yes, yes.

N: ---I'm talking to you.

JT: -- yes yes.

N: Tell me! Tell me -- fuck the ---- phone I don't give a fuck about the phone.

JT: Nick, Nick.

N: What?

JT: Please I am telling you its going to be taken care of -- please, please didn't I tell you before you got the job -- didn't I tell you --- I says here's money for the job don't worry about it -- remember I don't, I don't, I don't forget. I remember.

N: Well, what are they doing waiting for this other geek (ph) to come back?

JT: Yeah, yeah, yeah.

N: Someday I would like to meet -- are you working?

JT: I'm not working, I'm home now. I just got home.

N: --- I mean during the week.

JT: Well I'm trying to get as much time -- tomorrow will be my fourth day and...hope that I work Thursday and Friday -- even the weekend, I don't know.

N: Ok, listen don't --- give that kid Hollered no trouble cause

JT: No, no alright.

N: He's a good fellow.

JT: Ok, as long as you say.

N: He's just a legitimate working guy they given him a bum rap that kid for no reason.

JT: Ok.

N: I'm telling ya --- when I see --- your father knows the story.

JT: Ok, alright. You alright though?

N: I'm hanging on what can I do?

JT: Yeah.

N: If anybody asks how I'm doing, I'm sick.

JT: That's what I've been saying ---- (inaudible) the operation I told you

N: When I tell you this story you will want to go kill people like I wanted to.

JT: Alright.

N: So pops said things would be alright or what?

JT: Yeah, yeah, yeah.

N: Huh?

JT: Yes, they are waiting for Arti to come back.

N: Ok.

JT: Then everything will be ok, how's Julia?

N: How's Julia? I haven't seen her in about three months.

JT: What are you talking about? She was over your house when you were sick.

N: No, she was at the hospital but we broke up.

JT Oh, Oh.

N: But she took care of me.

JT: Oh.

N: It cost me about five hundred -- (laughs)

JT: Oh my God.

N: Alright John -- keep in touch with me.

JT. Of course.

N: I want to meet you.

JT: Ah, don't worry about it ---

N: Me, you, and your father we got to sit down.

JT: Ah he's mad at me again.

N: No, No, No.

JT: --- (laughs)

N: When do you speak to him again?

JT: Ah, about a week ago.

N: Ok.

JT: Don't worry about it. Everything alright. I'm worried about my wife you know she's sick.

N: Oh boy.

JT: Yeah.

N: Ah! We'll see what happens when they come back.

JT: Yeah, ok let me go. I gotta take a shower I'm soaking wet.

JT: Okay bye, bye.

38. On July 23, 1985, at 8:12 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 653-0724 and spoke with KEVIN GORDON ("WAXY"). GORDON informed Rivero that he had an appointment with the attorney (Dick Bonehill) set for "tomorrow". GORDON asked if he had the information, to which Rivero responded that he would get it by

"tomorrow". GORDON asked Rivero to call him at the office "tomorrow" with the information. Rivero asked GORDON if he had been in touch with PEANUTS. GORDON responded that he had tried to reach PEANUTS, but no one had answered the telephone. Rivero asked GORDON to have lunch with PEANUTS and "see what he wants to do." Rivero advised GORDON that he had the literature (information on the amusement deal) and that they needed to get together "tomorrow" afternoon. GORDON explained that there may be some possible hangups, and that he needed to talk to the City and the County about zoning. 9/

39. On July 23, 1985, at 8:20 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 945-9204 and spoke with Sharon Poltarez. Rivero asked for stolen MCI credit card calling numbers. Poltarez stated that the numbers she had were "used up" and that she then didn't have any others available.

40. On July 24, 1985, at 7:43 a.m., Judy Tronolone (wife of JOHN P. TRONOLONE, JR.), placed an outgoing telephone call from 861-1479 to telephone number (305) 757-2447, and spoke with Wayne (LNU). Judy Tronolone asked Wayne (LNU) to leave $15.00 worth in

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9/ On July 16, 1985, Rivero showed GORDON a videotape of an amusement operation and informed GORDON that the developer (Gino from Houston, Texas; Gino is an undercover FBI Special Agent) for the project needed assistance with zoning and licensing. GORDON stated that he could handle any zoning or licensing problems. GORDON further stated that a good location for the project would be in the vicinity of "Diamonds", at 7th Street and 57th Avenue. GORDON stated that "Diamonds" was a novelty place, biggest in the South and that, "We cheated a little to get him in there to begin with, he's a friend of the Mayor's.

the mailbox for her. Wayne (LNU) stated that he was out of everything. Judy Tronolone then stated that she need it to go to work. Wayne (LNU) then stated that the door will be open and a playboy magazine will be on the pool table and "it" will be in there.

41. On July 24, 1985, at 8:50 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to telephone number (305) 350-7964, and spoke with Juan Gonzalez. GORDON asked Gonzalez about the effects of the zoning laws on the Santa Barbara Home. Gonzalez stated that the ordinance and code allow only 6 residents in a foster home facility. Gonzalez further advised GORDON that the petitioner had an attorney. GORDON stated that he would contact her and devise a way to get around the ordinance.

42. On July 24, 1985, at 9:29 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to telephone number (305) 261-7306, and spoke with Marsha (LNU) (believed to be Marsha Williams). GORDON asked for (FNU) Fernandez regarding the Santa Barbara Home. GORDON informed Marsha that he was aware of the fact that Fernandez had applied for relief from the "City" and that the "City" had responded negatively to his request because of the existing zoning codes. GORDON further stated that he was able to get two of the commissioners to act favorably on his zoning requests but passing would require a favorable vote of four commissioners.

43. On July 24, 1985, at 12:10 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone

number (718) 366-8557, and spoke with STEPHEN MAHAY. Rivero informed MAHAY that MAHAY was booked on Eastern Airlines flight #11, arriving "tomorrow" in Miami. MAHAY advised Rivero that Teddy Gleason, or someone from his office, is the one who will get Rivero into the union. MAHAY then told Rivero not to use Gleason's name on the telephone.

44. On July 24, 1985, at 12:24 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (305) 861-4863, and spoke with KEVIN GORDON ("WAXY"). Rivero asked GORDON about Teddy Gleason. GORDON stated that Gleason had been "at the powerhouse" of the ILA for about 30 years and that he was, or used to be, at the top. GORDON stated that Gleason maintains an office in D.C. and had clout with the Democrats in Washington.

45. On July 24, 1985, at 6:38 p.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 653-0724 to telephone number (305) 861-1479, and spoke with JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"). GORDON asked PEANUTS if they could meet "tomorrow". PEANUTS agreed to meet at 12 noon at the Italian Restaurant across from the Omni Hotel. WAXY asked if he could bring Johnny Rivero, and PEANUTS agreed.

46. On July 25, 1985, at 10:28 a.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from KEVIN GORDON ("WAXY"). GORDON informed Rivero that they had a luncheon

meeting with JOHNNY PEANUTS at noon. Rivero agreed to pick up GORDON at 11:30 a.m. at the "Dust" (The Gold Dust Lounge). 10/

47. On July 26, 1985, at 10:11 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Marsha (LNU) (believed to be Marsha Williams). The following is a transcription of the pertinent portion of the telephone conversation:

GORDON (G): Gordon speaking

Marsha (M): Mr. Gordon, this is Marsha

G: Hi Marsha.

M: How are you?

10/ On July 25, 1985, at approximately 12:10 p.m., Rivero, GORDON, PEANUTS and his wife Judy Tronolone, met at an Italian Restaurant named Chicos Italian Restaurant and Pizza on Biscayne Boulevard located across the street from the Omni. During the meeting, PEANUTS told Rivero that he wasn't ignoring Rivero, but that work at the docks was currently very slow, "there was no work." PEANUTS stated that in a month or two "things are going to break loose at the docks." PEANUTS stated, however, that if Rivero just wanted to get on the docks he could arrange to get Rivero a pass so Rivero could get in at the docks with him as his helper. PEANUTS informed Rivero that he would contact him on Monday and Tuesday. GORDON then told PEANUTS, "let us know what it is going to cost." PEANUTS replied, "We'll see later, let's see how it turns out." PEANUTS and WAXY talked about WAXY's old friendship with PEANUTS' father. WAXY stated that he once borrowed money from PEANUTS' father "when he was a shylock." During the meeting, PEANUTS advised Rivero that STEPHEN MAHAY was a nice guy, "but he's running his mouth too much" and PEANUTS has been hearing from New York that MAHAY is asking everybody in New York about getting Rivero on the docks for money. PEANUTS suggested that the best thing would be for MAHAY "to keep his mouth shut." PEANUTS and his wife departed the restaurant at 1 p.m.

While still at the restaurant, WAXY told Rivero that PEANUTS' father once paid $5,000 to WAXY to give to police officers who had arrested PEANUTS on a DUI case. WAXY stated that he acted as a middle man in that the police officers failed to appear in court in the DUI case was dismissed.

G: Fine.

M: Ok. I spoke with my dad and he said, ... you told me this was attempted already?

G: Yes. They had already gone to the Chief Zoning Inspector, and a girl named Judy Miller who handles the community based residential facilities for the City of Miami, and to the Zoning Administrator, Mr. Genuardi (phonetic).

M: Ok. So you're saying that he already attempted this and he's telling me that he never tried it. He's never gone to anyone. The first step he took was to call you, after speaking with Al Gonzalez, who referred him to you.

G: They're all very familiar with...

M: He doesn't know what's going on because they haven't gone anywhere or done anything.

G: Somebody made an inquiry about this to them, now apparently according to Juan Gonzalez, this had come up before, and through an attorney, now has your father ever had any... how did he know that he couldn't do it if he hadn't contacted anyone before?

M: No, he didn't know he couldn't do it.

G: Oh, well.

M: He, they just, Al Gonzalez told him to talk to you.

G: Well the way I got it from Al is that he had a probelm with the City of Miami and he didn't know how far it went, and he asked me to intervene.

M: Well, I know Santa Barbara Homes attempted something else, but it wasn't this. She wanted, there was another home that

was going to be built next to hers, and it was going to be much bigger and they were going to make, like, instead of having two duplexes like she has now she was gonna make just one big home, like 10 or 12 bedrooms and I know she took that to the City of Miami, but that was something totally different. They just declined that. Oh I know that much.

G: Well, that's probably why they were familiar with the restrictions of six, of a total of six residents on the site. The requirements, even though you may be licensed, by (unintelligible) by HRS, the zoning ordinance has restrictions as far as what can be done in a RG zone, you know which is a residential zone, a general residential zone, and it goes back to duplex zoning.

M: Uh-uh-uh.

G: They limit the total amount of residents to six.

M: So you can't have more than six.

G: Well, that's probably why they are familiar with Santa Barbara Homes. Its possible that it came up in the other application or request. I, I just sort of jumped to the conclusion that Fernandez had gone ahead and done something.

M: No, no he hadn't. His wife is the owner of Santa Barbara Homes.

G: Yes.

M: She attempted that, that thing that I just told you about.

G: I see.

M: ...which I didn't know about. Ok, and I know it was declined. They told her it couldn't be.

G: Ok that's why they are familiar with both the name and the location._

M: Ok.

G: The same things apply. When she attempted to do that, they're using the same application of the zoning ordinance and the city code.

M: You mean it was the same thing, like having more?

G: Uh huh.

M: So thats, I see, I understand.

G: And even, including the other property, you still can't have more than six on the total site. That was the whole problem.

M: Ok, I see. It has dual parcels. He said "I've never attempted this I haven't gone to anyone," you know. So he was wondering what was wrong.

G: So it was on the other application or request that went in.

M: Thanks for clearing it up.

G: Right

M: Bye

G: Bye

48. On July 26, 1985, at 12:49 p.m., Johnny Rivero placed on outgoing telephone call from (305) 947-0818 to telephone number (305) 754-1381, and spoke with KEVIN GORDON ("WAXY"). Rivero informed GORDON that Terry Ahern's case number was 85-15145. GORDON stated that he would try to reach the attorney.

49. On July 26, 1985, at 9:58 p.m., STEPHEN MAHAY received an incoming telephone call at (305) 947-0818 from an individual

named JACK DOOLEY in New York. The following is a transcription of the pertinent portion of the telephone conversation:

Jack (J): You know the banking envelopes in the cleaning box? You do anything with them?

MAHAY (M): No whatever was left I gave to Robbie.

J: Somebody put baby powder in there and the pebbles were gone - Wednesday, Thursday - somebody knew. You didn't see the guy in SW? You gotta make a move.

M: Bad?

J: Very weak. Make a move.

M: Tomorrow. I saw Lulu (phonetic) today - I'll call you. How bad was that touched?

J: Bad - separated, all gone.

M: What he get? I left at 4:00 o'clock with her. How much did they use?

J: Doesn't matter.

M: How bad was that touched?

J: You didn't sit with that Bob?

M: No

* * *

M: How much is left?

J: I don't know. Go back to the fish store. 11/

30. On July 26, 1985, at 10:05 p.m., STEPHEN MAHAY placed an outgoing telephone call from (305) 947-0818 to telephone

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11/ It is believed that this conversation concerns a shipment of cocaine that MAHAY transported to New York in later June.

number (718) 366-8557, and spoke with JULIA NAHAY. NAHAY informed JULIA that JACK (DOOLEY) thinks somebody "played" with the stuff. An unidentified male (UM) got on the telephone and NAHAY asked if he got his thing. The UM stated that he'll "pick it up tonight or tomorrow." NAHAY then asked JULIA if anyone touched "them". JULIA responded, "How could we get at it?" NAHAY then told Julia to "make out like you don't know nothing". JULIA later asked how much was missing, to which NAHAY responded that nothing was missing but mixed.

51. On July 26, 1985, at 10:33p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 947-9279, and spoke with DARBY (LNU). NAHAY asked for the number for the guy with the fish place on 163rd. DARBY responded that his name was Phil and the number 895-3285. DARBY added that Phil had been out of town and that he (DARBY) was also trying to get a hold of him on a couple of "deals".

52. On July 27, 1985, at 2:11 p.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 653-0724 from Dick Bonehill. Bonehill advised GORDON that the price to represent the female (Terry Ahern) would be upwards of $2,500 plus expenses of $200 to $300 for a court reporter. Bonehill stated that he wanted to take a deposition from the police officers involved and that because the female was injured at the station, the city would be seeking jail time for her to protect themselves against a possible lawsuit.

53. On July 27, 1985, at 2:21 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 651-5623,

and spoke with DOMINICK ROMANO. ROMANO advised NAHAY that he has seen the same car on several occasions, including outside his home. NAHAY then stated that "they are agents".

54. On July 27, 1985, at 2:58 p.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from Dick Bonehill. Bonehill advised Rivero that Terry Ahern is facing four misdemeanor charges and read the narrative on the police report. Rivero asked Bonehill if there was someone that he (Bonehill) could get "to take care of this thing". Bonehill stated no, that it would take time and money pursuing the matter legally.

55. On July 27, 1985, at 3:12 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 653-0724, and spoke with KEVIN GORDON ("WAXY"). Rivero advised GORDON of his (Rivero's) telephone conversations with Dick Bonehill. During the conversation STEPHEN NAHAY, who was with Rivero, picked up a telephone and engaged in a conversation with GORDON and spoke about gambling in South Florida.

56. On July 29, 1985, at 10:31 a.m., KEVIN GORDON ("WAXY"), placed an outgoing telephone call from (305) 861-4865 to (305) 947-0818, and spoke with Johnny Rivero. WAXY stated that he had spoken with the attorney and the attorney requested a $1,000.00 retainer for the Terry Ahern case; $500.00 would be for the depositions and that the trial would cost more. WAXY further stated that he and Rivero could pick up a few bucks. Rivero advised WAXY that he was waiting for PEANUTS to call and WAXY responded that if he (Rivero) did not hear from PEANUTS, to give WAXY a call.

57. On July 29, 1985, at 11:24 a.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818, and spoke with JACK DOOLEY. NAHAY told JACK DOOLEY that he would call him at 10:00 p.m.

58. On July 29, 1985, at 1:33 p.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818 from JACK DOOLEY. DOOLEY stated that something was wrong "when I tested it. It was baby powder; two ounces of baby powder". NAHAY informed DOOLEY that JOHNNY PEANUTS would get Johnny (Rivero) on the docks "down here". DOOLEY advised NAHAY not to call Jerry "too much", as he was "afraid his line is tapped". NAHAY further stated that the "broad won't come down, about 35, going 33 to 35." NAHAY added that "Joe the Plumber" never left, as Dominick (believed to be DOMINICK ROMANO), has a "tail" on him. DOOLEY then stated that the balloon was taking pictures in Bimini and Freeport. DOOLEY then gave NAHAY telephone number 371-3555-914-636-9899.

59. On July 29, 1985, at 1:46 p.m., NAHAY placed an outgoing telephone call from (305)947-0818 to 371-3555-914-359146369899, and spoke with JACK DOOLEY. NAHAY told DOOLEY "good number". DOOLEY responded "Yeah, it's good." NAHAY then advised DOOLEY that he was meeting a Brazilian guy tomorrow. DOOLEY stated, "Package of five and ten."

60. On July 29, 1985, at 2:17 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 652-0083, and spoke with SHARON POLTAREZ. NAHAY asked SHARON if she had any new numbers, to which she responded "no."

61. On July 29, 1985, at 3:54 p.m., STEPHEN MAHAY received an incoming telephone call at (305) 947-0818 from Johnny Rivero. Rivero stated that JOE SIMONE is looking for him and is with him "now". Rivero gave the telephone to SIMONE and SIMONE told MAHAY that he needed to speak with him and needed the money back because he is being pressured from other people. (Both STEPHEN MAHAY and JOE SIMONE have told Rivero that SIMONE gave $10,000 to STEPHEN MAHAY to purchase drugs. STEPHEN MAHAY was to purchase the drugs in New York and resell the drugs in New York, and then deliver to SIMONE the original $10,000 plus the profit from the sale of the cocaine and/or heroine.)

62. On July 29, 1985, at 4:01 p.m., STEPHEN MAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 758-9152, and spoke to Johnny Rivero. MAHAY told Rivero that he would give JOE SIMONE the money that he owed him. MAHAY asked Rivero who he was with; to which Rivero responded that he was with KEVIN (KEVIN GORDON, "WAXY"), Eddie, and a gray-headed cop named Dick, who knows "what's going on." MAHAY stated that JOHNNY PEANUTS was supposed to call him (MAHAY) about another matter.

63. On July 29, 1985, at 5:58 p.m., STEPHEN MAHAY received an incoming telephone call at (305) 947-0818, from Johnny Rivero. Rivero told MAHAY that he had met with JOE SIMONE and SIMONE told Rivero to tell MAHAY that SIMONE wanted his money back. Rivero advised MAHAY that SIMONE threatened to come after MAHAY and JACK DOOLEY if MAHAY left Miami without seeing him (SIMONE).

64. On July 29, 1985, at 6:11 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to 371-3555-914-3591-4796, and spoke to PENNY (LNU). NAHAY asked to speak with "ROBBIE", and was advised that "ROBBIE" was not in. NAHAY asked if "ROBBIE" had picked up the "stuff", and PENNY said yes. NAHAY then asked if he had plenty, and PENNY said that he would talk to him ("ROBBIE") when he gets back.

65. On July 29, 1985, at 7:15 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557, and spoke with JULIA NAHAY. STEPHEN NAHAY spoke about JACK (DOOLEY) and asked JULIA if the "stuff" was good. JULIA said it was damp, but that ROBBIE had put it in the freezer. JULIA then explained the procedure concerning the "packages" as follows: "He counted them, put them in a bag, and put them in a drawer. I gave him the money, and he told ROBBIE they were in the drawer. He put it in the blue thing and sealed it. Then he said 'I'm going out. They're in the drawer.' Then he came in the morning at seven or eight o'clock. I gave him the money. Then ROBBIE came in and he talked to ROBBIE and said Mama's got in the drawer. ROBBIE said, 'I ain't gonna touch it until Sunday.' ROBBIE said 'Be careful, don't go away.'"

66. On July 29, 1985, at 7:21 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (914) 796-2491, and spoke with an unidentified male (UM). NAHAY asked if he got the "stuff." The UM said yes, everything was okay. NAHAY then said not to say anything to Richie, that Richie was the one who was giving the "thing" to Eddie. The UM said "it" seemed a

little moist. NAHAY asked the UM if he had tasted "it". The UM replied that he had.

67. On July 29, 1985, at 11:09 p.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818 from JACK DOOLEY. NAHAY told DOOLEY that JOE SIMONE knew he (NAHAY) was in town. NAHAY asked DOOLEY how much outstanding money there was. DOOLEY said there was 1700. NAHAY then stated that that left about "five grand". NAHAY said he (NAHAY) would give SIMONE a certified check.

68. On July 30, 1985, at 10:21 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to (305) 947-0818, and spoke with Johnny Rivero. WAXY advised Rivero not to forget the books (WAXY was referring to the "Photon" amusement booklets. This matter was previously referred to on July 23, 1985, at 8:12 p.m. in a telephone conversation between WAXY and Rivero.) Rivero asked if it was one or one and a half. GORDON replied "One and a half, but I'll give him 100." (This conversation refers to the $150.00 Rivero agreed to front to GORDON from his cut of the payoff from Rivero to JOHNNY PEANUTS. GORDON was to use this money to pay the shylock). GORDON then advised that he would call PEANUTS "tonight". 12/

12/ On July 30, 1985, at approximately 1:00 p.m., Rivero was with WAXY at the Tin Lizzie Restaurant when WAXY paid $100 to RICHARD WILLIAM BRAHAM. At approximately 2:00 p.m. STEPHEN NAHAY and JOE SIMONE entered the Tin Lizzie Restaurant and joined Rivero and WAXY at the bar.

69. On July 30, 1985, at 10:58 a.m., KEVIN GORDON ("WAXY"), received an incoming telephone call at (305) 861-4863 from an unidentified female (UF). WAXY stated that "they" gave him two weeks to raise the money. WAXY then referred to making a payment of $140.00 per week.

70. On July 31, 1985, at 10:39 a.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 279-3838, and spoke with Buffy (LNU). NAHAY told Buffy (LNU) that he wanted to meet with him alone concerning what they had talked about before. They talked about meeting at ZACHARY's at a later date.

71. On July 31, 1985, at 10:57 a.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 861-4863, and spoke with KEVIN GORDON ("WAXY"). WAXY told Rivero that "we got to get this thing with Johnny (JOHNNY PEANUTS) straight." WAXY added that they (apparently PEANUTS and someone else) were to meet on Friday. WAXY then advised Rivero that he (Rivero) should call PEANUTS Friday night to find out what happened.

72. On July 31, 1985, at 11:11 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to telephone number (305) 661-4519, and spoke with Dick Bonehill. WAXY advised Bonehill that he would meet with someone at one o'clock to get a substantial amount of money from him on a "loan."

73. On July 31, 1985, at 11:53 a.m., KEVIN GORDON ("WAXY"), received an incoming telephone call on (305) 861-4864, from an

unidentified female (UF). WAXY stated that he wanted to find someone with money. WAXY then stated that there was a guy in from Texas who could possibly supply him with "front money." WAXY added that he had run out of places to call for money.

74. On July 31, 1985, at 12:33 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (718) 366-8557, and spoke with WILLIE NAHAY WILLIE stated that JACK (DOOLEY) was in Atlantic City. NAHAY wanted to know if JACK had taken any clothes. They then had a conversation as to the contents of a suitcase that JACK may have taken with him.

75. On July 31, 1985, at 5:24 p.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS") placed an outgoing telephone call from (305) 861-1479, to telephone number (305) 949-5093, and spoke to Nick Forlano. PEANUTS asked Nick if he had spoken to Arti (believed to be Arti Coffee, President of ILA Local 1922). Nick said "yeah, yeah" and advised that it did not look good, but did not want to talk further on the telephone. Nick asked how many days he (PEANUTS) was working, and PEANUTS responded "four days" and that he was bringing home about $380.00. Nick then laughed and said he would "be bringing home the same thing." PEANUTS asked, "What are you talking about?" Nick then said, "who the fuck knows. I'll tell you when I see you - the Cubans are putting it up my ass pretty good, don't worry about it."

76. On July 31, 1985, at 6:26 p.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS") placed an outgoing telephone call from (305) 861-1479 to telephone number (305) 673-0361, and spoke to an unidentified male (UM). The UM stated that Jerry (believed to be

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Jerry Becerra, business agent of ILA Local 1922), would not call even if he had a ship - "he'd call Hialeah." The UM and PEANUTS then spoke about Nick (believed to be Nick Forlano) and how "they voted against him - they didn't want him . . . as a delegate." PEANUTS then told the UM that he wanted to tell his father that he (PEANUTS) wanted Nick's job - "I'm waiting for him to come back . . . cause he's with Dougie (believed to be Douglas Rago). They're in Vegas." The UM and PEANUTS then spoke about the fact that the Cubans were taking over the union.

77. On July 31, 1985, at 7:39 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone number (305) 651-6096, and spoke with an unidentified male (UM). NAHAY and the UM spoke about JACK (DOOLEY) from New York, and that JACK went to Atlantic City, New Jersey. NAHAY said that JACK took "five big ones" and was supposed to mail it back to Florida. NAHAY advised that JACK was putting him on the spot; that he (NAHAY) saw the man (JOE SIMONE) who he (NAHAY) owed money and that he told the man that he would have "five big ones" for him soon. NAHAY added that he will "blow him (DOOLEY) away" if something went wrong.

78. On July 31, 1985, at 10:30 p.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818, from an unidentified male (UM). The UM asked NAHAY to meet with him, as he had something to ask him and needed his help - that it could be meaningful "for both of them." NAHAY and the UM then agreed to meet the following day in the afternoon.

79. On August 1, 1985, at 6:24 a.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), placed an outgoing telephone call from (305) 861-1479 to telephone number (305) 379-8694, and spoke with Jerry (believed to be Jerry Becerra, business agent of ILA Local 1922). PEANUTS informed Jerry that he was injured and would not report to work "today."

80. On August 1, 1985, at 11:46 a.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS") placed an outgoing telephone call from (305) 861-1479 to telephone number (305) 379-8694 (subscribed to by ILA Local 1922) and asked for Mr. Coffee (Arti Coffee). PEANUTS was advised that Mr. Coffee was not in.

81. On August 1, 1985, at 11:53 a.m., KEVIN GORDON ("WAXY"), placed an outgoing telephone call from telephone number (305) 861-4865 to telephone number (305) 350-7958, and spoke with an unidentified female (UF). GORDON advised the UF that Bonehill had a guy "he (Bonehill) wants me to talk with . . . We may pull a scheme . . . give me a phoney real estate contract and offer that and try and get some time . . . if not, tomorrow's the day."

82. On August 1, 1985, at 12:07 p.m., KEVIN GORDON ("WAXY"), placed an outgoing telephone call from (305) 861-4863 to telephone number (305) 758-9691, and spoke with Gene Perry. GORDON told Perry that he needed three 10,000 square feet buildings for an "amusement thing" for a guy coming from Houston. Perry advised that he may have something to show GORDON and GORDON stated that he had a place to look at in South Miami.

83. On August 1, 1985, at 9:42 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to telephone

number (718) 366-8557, and spoke with WILLIE NAHAY. STEPHEN NAHAY asked if WILLIE had heard any word from JACK (DOOLEY), to which WILLIE responded that he had not.

84. On August 2, 1985, at 5:20 p.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), placed an outgoing telephone call from (305) 861-1479 to (305) 949-5093, and spoke with Nick Forlano. PEANUTS and Forlano spoke about work at the docks and how the Cubans were taking over. Forlano asked about PEANUTS' father, and PEANUTS stated that he was "back." Forlano stated that he had to see PEANUTS' father "tomorrow" and "let's see what I can do."

85. On August 2, 1985, at 7:11 p.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS") placed an outgoing telephone call from (305) 861-1479 to telephone number (305) 673-0361, and spoke with an unidentified male (UM). PEANUTS asked for BUTCH VANDERWYDE's telephone number; the UM responded "624-3874." PEANUTS then stated that he had bad news, "Nick said he's not coming back, they don't want him back . . . not even as a checker . . . the fucking Cubans axed him. They voted against him to come back . . . Electo (believed to be Electo Maurice, a member of ILA Local 1922) had a lot to do with it." The UM then asked "what about . . . Doug and Tony and those guys?" PEANUTS responded, "Well whatever he did was bad, there's more to it than everything we hear . . . He said that he'll tell me the story when he sees me . . . He's gotta go see my father tomorrow." The UM then stated that the Cubans were taking over and asked "who'd . . . think that they're bigger than Doug (believed to be Douglas Rago) and, or Fat Tony (believed to be Anthony "Fat Tony" Salerno) and your

father." PEANUTS responded that everyone was in trouble, "Doug may go to the can, Tony is going to the can, my father is getting ready to get indicted again." PEANUTS then stated that Jerry (Jerry Becerra, business agent of ILA Local 1922), has the power. The UM then said that he was thinking of telling Jerry and . . . Electo that he wanted to work ships "and as a joke say I don't give a fuck what it cost me." PEANUTS and the UM then both stated that "he's liable to give" a price.

86. On August 3, 1985, at 6:33 p.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from STEPHEN NAHAY (NAHAY left for New York on August 2, 1985). Rivero told NAHAY that he (Rivero) heard that JACK was in town. NAHAY asked Rivero to determine if JACK was in fact in town and if he was, he (NAHAY) would return to collect from JACK. NAHAY added that if he could not collect, that he would kill JACK, "blow him away." NAHAY then told Rivero that he would call him tomorrow.

87. On August 4, 1985, at 1:30 p.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from STEPHEN NAHAY. NAHAY informed Rivero that JACK (DOOLEY) was working on a deal for ten kilos and that he (JACK) would have some people coming down from New York with money and that either JACK or the customers would transport the "stuff" back up North. NAHAY then stated that JACK would conclude the deal within a couple of days and then return to New York.

88. On August 4, 1985, at 6:51 p.m., JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), received an incoming telephone call at (305)

861-1479 from Johnny Rivero. PEANUTS stated that his boss was out of town and that he would get with Rivero at a later date.

89. On August 5, 1985, at 9:34 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to Johnny Rivero at (305) 947-0818. Rivero told WAXY that he had spoken with JOHNNY PEANUTS the previous night. PEANUTS said that he had talked to "his boss" who said he would call back Monday. WAXY asked which boss and Rivero replied that he did not know. WAXY said that he would find out who the boss is. WAXY said that it was not a question of putting Rivero on the docks, just getting him over there. WAXY then stated that he saw a building which would be beautiful for Gino, an old Gold Triangle building. This building was in the heart of Dadeland, on a major artery. WAXY said that he would get the particulars; thinks it would be perfect. WAXY said that the building had everything Rivero wanted and that the zoning would be right also. WAXY said that he was to meet with Bonehill later. Rivero stated that STEVE had called the day before and said that everything is all right. Rivero said that JACK was now in Miami and was trying to negotiate a deal. Rivero said that STEVE Hasn't gotten the money and will be in later in the week. According to Rivero, JACK was at the Golden Nugget. Rivero and WAXY then discussed whether JACK would come through and WAXY remarked that JACK may be blowing smoke. Rivero said that they got the O.K. on a boat coming in and mentioned renting a location in Dadeland.

90. On August 5, 1985, at 5:01 p.m., JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS") received an incoming call on (305) 861-1479

from KEVIN GORDON ("WAXY"). The following is a transcription of the pertinent portion of the telephone conversation:

JT: JOHN "PEANUTS" TRONOLONE

KG: KEVIN "WAXY" GORDON

JT: He called me yesterday.

KG: Yeah.

JT: And I told him, you know whats going -- I got to wait till Arti -- I got to -- we are going to have to go out to lunch with him.

KG: With who?

JT: With Arti.

KG: Arti Cavella (phonetic)?

JT: No! Fuck Arti Cavella (phonetic).

KG: Oh! Arti Coffee?

JT: Yeah.

KG: What do we need him for?

JT: What do you mean -- thats who I got to get the OK from.

KG: The OK to take a guy on the port?

JT: Kevin

KG: OK.

JT: Kevin I can take him on the port there is no problem there.

KG: OK . .

JT: But for what he wants to do.

KG: Yeah, OK.

JT: You know.

KG: When can you set it up?

JT: I will try to get it set up, but this guy since he come back

from Hawaii -- he came back Monday or Sunday. He's moving and he in process of moving to a new house.

KG: Yeah.

JT: And you know -- ah -- I want to do it at his discretion. You know what I mean.

KG: Yeah .. Well can we keep in touch?

JT: Yes . . definitely, I told him to call me after five everyday until I can give him the word.

KG: OK . .

JT: I . . I want to meet him for lunch.

KG: OK . . When, ah, when I run into him and tell him its Arti Coffee you got to see.

JT: Am not -- Oh don't tell him anything . . . don't tell him who the guy is . . . don't tell him who the guy is.

KG: We'll at some time he's got to meet him . . . you know . . . you . . . can't we got da. . .

JT: (Unint)

KG: You can handle it without seeing this guy?

JT: What . . . what.

KG: Maybe you and I should meet you know?

JT: What does he want to do he's never given me a clear picture of exactly he wants to do.

KG: He wants to be on the port.

JT: Yeah.

KG: He'd like a card of course . . . you know.

JT: Yeah.

KG: OK, obviously that is very . . . very hard to do especially

locally.

JT: Right. Right.

KG: OK.

JT: You can just about forget about that.

KG: Yeah OK . . . so meeting with Arti Coffee ain't going to do too much is it?

JT: But what does he want to do.

KG: He wants to be on the port when certain things are coming in, when we ah, open up the shipping line.

JT: Well that's no problem . . . I . . .

KG: Well that's what I told him.

JT: I can bring him . . .

KG: You were going to handle that?

JT: Yeah, I can bring him out anytime he wants.

KG: OK.

JT: Shit . . . Listen tell him that you talked to me and we got it all straightened out. OK.

KG: OK now . . .

JT: Fuck them other guys.

KG: How about the juice?

JT: Huh?

KG: How about ah . . How about the money.

JT: Well what do you think, I don't know what this guys got in mind if he's bringing anything in good . . I . . I want a piece of . . I want a piece of it for us.

KG: I see . . .

JT: You understand?

KG: Yeah, thats good with me.

JT: So you make a figure and let me know.

KG: OK, babe.

JT: OK buddy?

KG: OK.

JT: As far as that goes, if thats all he wants to do, tell him I got the OK.

KG: You got the OK to get him on the port?

JT: Yeah, no problem.

KG: OK . . .

JT: OK, buddy.

KG: OK.

JT: Alright, call me anytime.

KG: I will call you tomorrow and tell you the price.

JT: Call me anytime.

KG: OK, thanks a lot Peanuts.

JT: Goodbye, yeah.

KG: Bye.

91. On August 5, 1985, at 5:26 p.m., JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS") received an incoming call on (305) 861-1479 from Johnny Rivero. PEANUTS asked if KEVIN GORDON had spoken with Rivero yet. Rivero said no. PEANUTS said that he talked to WAXY and that WAXY will tell Rivero all about it.

92. On August 6, 1985, at 10:04 a.m., Johnny Rivero placed an outgoing telephone call on (305) 947-0818 to KEVIN GORDON ("WAXY") at (305) 861-4863. Rivero asked WAXY how things went and WAXY replied, "well". WAXY complained that he was not able

to reach Bonehill. Rivero and WAXY discussed the fact that if things went well with PEANUTS they would not need Bonehill, that Rivero could go "right in." WAXY stated that PEANUTS wants WAXY to come up with a figure for Rivero to pay (to get on the docks). WAXY asked if Rivero wanted him to get in touch with "PENNY" SIZEMORE (believed to be PENDLETON SIZEMORE). WAXY said he would try to arrange a meeting with SIZEMORE at 1:00 p.m.

93. On August 6, 1985 at 10:07 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call on (305) 861-4863 to unknown female (UF) at (305) 945-4999. WAXY left a message with UF that he would be late for his 1:00 p.m. meeting with RICK.

94. On August 6, 1985 at 10:07 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call on (305) 861-4863), and spoke with PENNY (PENDLETON SIZEMORE) at (305) 884-0661. WAXY stated that he would meet with PENNY at Clydes as soon as PENNY's board of directors meeting ended, about 1:00 p.m. PENNY said that it was OK for WAXY to bring someone (Rivero) with him.

95. On August 6, 1985 at 10:12 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call on (305) 861-4863 to Johnny Rivero at (305) 947-0818. WAXY told Rivero that they will meet "the guy" at Clydes at 1:15-1:30 p.m. WAXY and Rivero agreed to meet at the Tin Lizzie at 12:30 p.m. 13/

13/ At approximately 11:00 a.m. on this date Johnny Rivero was furnished with a Nagra recorder which was sealed by affiant. This recorder was to be utilized in a meeting between Rivero, KEVIN "WAXY" GORDON, and PENNY SIZEMORE. At approximately 4:30 p.m., Rivero met with affiant at which time the recorder was
(Footnote Continued)

96. On August 7, 1985 at 1:58 p.m., Johnny Rivero placed an

(Footnote Continued)
obtained and was in the same sealed condition. Upon obtaining the Nagra it was determined that the recorder malfunctioned and no conversation was recorded.

A detailed interview of Rivero follows:

On August 6, 1985, Johnny Rivero met with KEVIN "WAXY" GORDON at the Tin Lizzie Restaurant and Lounge in North Miami, Florida at approximately 12:30 p.m. WAXY stated that they (he and Rivero) were going to meet "PENNY" (later identified as PENDLETON K. SIZEMORE) who thinks that it is just a friendly meeting. WAXY added however that the meeting would really be all business. He stated that "PENNY" had called him a few days ago trying to find out where everybody was "drinking these days". WAXY stated that "PENNY" was strong with the unions and in particular George Barone who is now in jail, Al Gonzalez (Hotel & Restaurant Union), Thomas Gleason (ILA), and is a close personal friend of Arti Coffee (ILA Miami).

A short time later Rivero and WAXY drove to Clydes Restaurant and Lounge on 67th Avenue and met with "PENNY". During this car ride WAXY brought up bringing in "dope". WAXY stated that he had a friend by the name of Dennis whom he described as one of the largest dope runners in Miami. This guy could help "us" bring in dope, however, he would meet our guys in Rivero's house and discuss how, where and how much money and amount of dope was involved. Thereafter, Dennis would have his people meet Rivero's people off shore at which time the dope would be given to them. They in turn would deliver the dope to a location in Miami for off loading. Rivero advised that "Bob" from Mississippi had gotten permission to run a few loads on his own, however, the main people still wanted a connection in the port. Rivero stated he advised WAXY that unless "we" could have police protection through North Bay Village or any other place, that he would tell "Bob" that he (Rivero) didn't want to take the chance and possible mess up the main deal in the port.

WAXY stated that he had Mayor Steve Clark in "his pocket" and could possibly approach him (Clark) to help us in off-loading the dope. WAXY added that when Clark was running for office during his last election he (WAXY) collected $40,000.00 from various businesses for his (Clark's) campaign. WAXY stated he went to numerous business people that he had helped in the past, to obtain licenses and other things, for the money. WAXY named one individual who he pressured for $4,000.00. WAXY was upset because he gave the $40,000.00 in cash to Clark on an elevator and Clark reached in the bag and gave him $100.00. WAXY added that Clark is a millionaire, however, he never pays for anything.

At approximately 1:10 p.m., Rivero and WAXY met "PENNY" at the Clydes Restaurant and Lounge. Shortly thereafter WAXY introduced Rivero to PENNY as a close personal friend of his
(Footnote Continued)

outgoing telephone call on (305) 947-0818 to STEPHEN NAHAY at

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(Footnote Continued)
(WAXY).

Rivero stated that after small talk he excused himself from the bar to go to the restroom. Upon his return WAXY stated that we (GORDON, PENNY and Rivero) should have a sitdown lunch with Arti Coffee. PENNY stated that he would set up this meeting to discuss getting Rivero in the union. WAXY then advised PENNY that they have tried through numerous people to get Rivero on the docks without success, such as BUTCH VANDERWYDE. Rivero stated that WAXY then went to the restroom, at which time PENNY stated that he and Arti Coffee are close personal friends and he saw no problems in getting a union card, however, Rivero had to understand that there was very little work at the port right now.

WAXY returned from the restroom at which time he joined the conversation as to getting Rivero a union card. WAXY then raised his ten fingers to Rivero indicating that PENNY could get Rivero a union card. Rivero asked WAXY what he meant by this at which time WAXY said it would cost $10,000.00 for the union card.

PENNY stated that if they should have any problem with Coffee he (PENNY) will go directly to Al Gonzalez for his help and would call Thomas Gleason, head of the ILA in Washington for his help. PENNY added that if it was necessary he would set up a meeting for WAXY with George Barone in prison. Barone is also a close friend of PENNY's and could put Rivero on the docks as a union member. PENNY added that he could also see BUTCH VANDERWYDE's "daddy" in prison for his help in getting a union card.

Thereafter, general discussion was had between all the individuals about drinking and partying in Miami.

Shortly thereafter WAXY and Rivero left PENNY at the bar and drove back to the Tin Lizzie Restaurant and Lounge to pick up WAXY's car. During this ride, Rivero went over the previous discussion with PENNY and WAXY stated that PENNY was very powerful in Miami.

WAXY stated that while at the bar in Clydes, PENNY had introduced him (WAXY) to an individual with whom PENNY had done business with in the past. WAXY stated that this individual had to pay PENNY "front money" to get in the electrical association that PENNY was in charge of in Dade County.

WAXY stated that he had the Police Chief of Surfside in his pocket and if there was any problem he could handle them.

WAXY stated that his buddy Pete Furgerson was the campaign manager for Steve Clark.

His son is a "dead head" however he has a job on the docks. WAXY stated that Furgerson had to pay off an unnamed union (ILA) official to get a card.

Upon arriving at the Tin Lizzie, Rivero and WAXY had a drink at the Tin Lizzie and had a general discussion. Thereafter he

(Footnote Continued)

(718) 366-8557. Rivero told NAHAY that he has a new contact named "PENNY" who is a friend of Coffee's and Gonzalez's. NAHAY said that Coffee would not do anything. Rivero replied that he was sitting on $30,000 and still had not gotten a card. Rivero said that JOHNNY PEANUTS will try to get him a pass to get on the docks. Rivero said that PEANUTS told WAXY to come up with a price for Rivero to pay for the pass.

97. On August 8, 1985 at 9:22 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 and spoke with Dick Bonehill. After asking Bonehill whether his phone was OK, WAXY said that he had a guy who will sign a phony deal. WAXY also said that he is working a deal at the port and that his end was $2,500 but added that it would not be consummated until the following week. WAXY said that he was getting money from Johnny Rivero whose people are from Biloxi. WAXY said that RIVERO wanted to meet Bonehill. Bonehill and WAXY discussed the leak of some information apparently in connection with a zoning problem. WAXY also mentioned that Stout lost $25,000 on the sale of a license.

98. On August 8, 1985 at 10:41 a.m., KEVIN GORDON ("WAXY") made an outgoing telephone call on (305) 861-4865 to "PENNY" SIZEMORE. PENNY told WAXY that he was not able to reach the man they had talked about but that he did speak to someone else. That person wants the name, some background information before

(Footnote Continued)
and WAXY met at the Voyager Lounge on Biscayne and had general discussions after which Rivero departed and met with affiant.

they talk to anybody, "they got to know for damn sure who they talking about." SIZEMORE instructed WAXY to get him (SIZEMORE) some information concerning where he (Rivero) "comes from and who he knows". After WAXY gives SIZEMORE this information they will have a meeting. WAXY said he would get with him (Rivero) right now.

99. On August 8, 1985 at 10:47 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 and spoke with Johnny Rivero calling from (305) 947-0818. WAXY told Rivero that he spoke to PENNY, and that SIZEMORE wants Rivero to make out a resume -- who you are, who you know -- then they will have to sit down and go over it. WAXY stated that Rivero will have to put down people, places, what he is doing, who he has been with. WAXY stated that they want to be able to call someone and ask them about Rivero.

100. On July 24, 1985, interception was discontinued at (305) 651-5623 due to the fact that STEPHEN NAHAY would no longer be residing at this location. A review of the interceptions made pursuant to the Court's Order of July 15, 1985, has revealed no pertinent conversations on (305) 861-5034, a subsidiary number subscribed to by the City of Surfside City Hall. Based on the foregoing, this affidavit does not seek the Court's authorization to continue to interrupt wire communications on telephone facilities (305) 561-5623 and (305) 861-5034.

NECESSITY FOR CONTINUED INTERCEPTION

101. The conversations set forth above, while disclosing various facets of the criminal enterprise, have not yet revealed the full scope and nature of the enterprise, nor all of its significant members and associates. Much of the intercepted conversations involve or refer to persons not yet fully identified. Based on my knowledge of the facts of this investigation, my experience, and that of other Special Agents of the FBI with whom I have discussed the facts and circumstances of this case, and upon the information contained herein, I believe that the continued interception of wire communications requested herein is the only available investigative technique remaining which has a reasonable likelihood of securing admissible evidence needed to establish the full nature and scope of these offenses. All normal avenues of investigation have again been carefully evaluated for use or have been attempted with only minimal results. Those traditional investigative techniques utilized thus far have included the use of confidential informants, consensual recordings and physical surveillance. Also closely considered, but not deemed likely to succeed, is the use of a Federal Grand Jury investigation, interview of subjects, review of telephone toll records, use of pen registers, and the execution of search warrants.

102. As indicated in the affidavit submitted in support of the Application and Order authorized by the Honorable Alcee L. Hastings on July 15, 1985, information has been obtained from two confidential sources. CS-2 has only been utilized to provide

historical and background information. The FBI does not intend to utilize CS-2 in a covert investigation because CS-2's cooperation with the FBI in the UNIRAC investigation is widely known on the Miami waterfront. Rivero has been attempting to gain entry into the union but has met with little success to date. Although it may be possible to gain entry into the union through a substantial cash payment, Rivero's ability to obtain information about the full nature and scope of the illegal waterfront and union activities described herein is extremely limited. The subjects have on numerous occasions expressed concern about the presence of FBI agents and informants on the waterfront. On several occasions Rivero has been "patted down" by subjects of this investigation.

103. As I have detailed earlier in the affidavit submitted in support of the Application and Order authorized on July 15, 1985, ILA Local 1922 was previously the subject of a much publicized and extremely successful investigation - Operation UNIRAC. As a consequence, the union and individuals associated with the union are very sensitive to efforts by law enforcement to enlist the aid of any of its members. The necessity for the interception of wire communications has been demonstrated by the difficulty Rivero has had in becoming a member of ILA Local 1922. All direct attempts to join the union have been rebuffed and, as a consequence, Rivero has had to rely on intermediaries. One of these intermediaries, STEPHEN MAHAY, told Rivero that everyone on the waterfront feels that any new individual that attempts to join the union could be a federal agent or informant. Another

intermediary, "MAXY" GORDON, told Rivero that since Rivero was coming in from the West, Rivero would be treated as if he were an undercover agent. It was also indicated to Rivero that efforts had been made to investigate whether Rivero works for the government. PENDLETON SIZEMORE has recently requested that Rivero provide him with "references" to vouch for him.

104. Rivero has already been patted down three times, once by "MAXY", a second time by "PEANUTS", and a third time by an individual named Murray Franklin. The second pat down occurred in the presence of three police officers from the North Bay Village Police Department. At that time, "PEANUTS" also reiterated the ILA's apprehension of the FBI and accused Rivero of being a "cop".

105. Although Rivero will testify in any prosecutions that result from this investigation, his ability to penetrate the organization is extremely limited, as exemplified by the difficulty he has encountered in obtaining entrance into the union. Further, the ability to inject other informants or FBI agents into the union is similarly limited due to the subjects' expressed concerns about FBI agents and informants and their sensitivity to recording equipment. Moreover, it has been the experience of the FBI, including affiant, that organized crime figures and corrupt union officials isolate themselves and deal through intermediaries. Thus, even if Rivero is successful in gaining entry into the union his ability to determine the full scope of the participants in this offense is still extremely limited. No other informant has been located who can penetrate

the organization and provide the necessary investigative information.

106. The utility of undercover operations also are limited by the potentially violent nature demonstrated by certain subjects of this investigation. For example, NAHAY has discussed murders and robberies with Rivero and his prior use of violence to collect debts.

107. Due to the nature of the offenses being committed, as well as the sophistication of the persons involved, physical surveillance is not expected to disclose significant relevant evidence. Although surveillance has been able to corroborate the fact that Rivero has met with certain subjects of this investigation, surveillance has not been able to independently disclose the subject's criminal activity or the conversations. Surveillance of meetings between subjects or of the presence of subjects at various locations is of limited utility. Further, as set forth herein, NAHAY and WAXY have contacts with the North Bay Village Police Department to check license plates. This clearly makes close surveillance extremely difficult.

108. While toll records and pen register information may be useful in discovering the identities of the members of a criminal organization, they reveal little about the crimes being committed. What is not known and what we cannot learn from toll records or pen registers is the substance of their conversations. Thus, these techniques do not allow us to learn the nature and scope of any criminal conspiracy taking place.

109. I have been informed by AUSA Mark Schnapp, Chief of the Public Corruption Section of the United States Attorney's Office for the Southern District of Florida and AUSA Roberto Martinez of the United States Attorney's Office for the Southern District of Florida, that they do not believe that a grand jury investigation or interviews of the subjects would be successful in exposing the full nature and scope of the conspiracy, or the identities of all the conspirators. Such a grand jury investigation or interviews would likely result in the destruction of evidence and impair the goals of the investigation particularly because many of the individuals herein are related to organized crime interests. Based upon my experience, few individuals are willing to testify against organized crime figures. The use of grand jury subpoenas and grants of immunity appear infeasible at this time. Moreover, such contacts would obviously alert other subjects of the investigation.

110. The execution of search warrants is also deemed an ineffective investigative technique under the facts of this case since there is no reason at this time to believe that a search would uncover any items, documents or records which would disclose the total scope and true nature of the criminal activity alleged and all the participants involved. Moreover, the criminal activities under investigation here, e.g., extortion, are not the type of activity for which records or documents are made or identifiable.

111. Finally, it should be emphasized that this investigation involves illegal payments to union officials, a

public official, and persons associated with La Cosa Nostra. The use of the traditional investigative techniques enumerated above would be of little or no avail inasmuch as illegal payments are usually in cash and records are generally not kept of such payments.

MINIMIZATION

112. All interceptions will be minimized in accordance with Chapter 119 of Title 18, United States Code. Interception will be suspended immediately when it is determined through voice identification, physical surveillance, or otherwise, that none of the named interceptees or any of their confederates, when identified, are participants in the conversation, unless it is determined during the portion of the conversation already overheard, that the conversation is criminal in nature. Even if one or more of the named interceptees or their confederates, when identified, is a participant in a conversation, monitoring will be suspended if the conversation is not criminal in nature or otherwise related to the offenses under investigation. In connection with the request to intercept telephone conversations at the City of Surfside, it is recognized that many telephone calls either to or from that location may involve legitimate governmental functions. Various measures, such as physical surveillance, voice familiarity, and a review of activity on the Surfside City Hall telephone lines will minimize interceptions of non-relevant conversations.

AUTHORIZATION REQUESTED

113. The activity to be electronically monitored is believed to represent a continuing criminal conspiracy, and offenses of a continuing and repetitive nature; thereby necessitating the interception of communications on a continuing basis until the goals of the investigation are achieved. Therefore, it is requested that the interception not automatically terminate when the sought communications are first intercepted, but shall continue until communications are intercepted which reveal the full and complete manner in which the above-named individuals and others as yet unknown have committed and are committing the aforementioned offenses referred to herein, the identities of the participants and co-conspirators in those offenses, their places of operation, the individual acts committed by aiders and abettors and co-conspirators in those offenses, the extent of participation in those offenses by aiders and abettors and co-conspirators, and the full and complete nature and scope of the conspiracy involved, or for a period of thirty (30) days from the date of the Order, whichever is

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By Carol Fardello Deputy Clerk
Date 1-23-89

GEOFFREY SANTINI
Special Agent
Federal Bureau of Investigation
Miami, Florida

Sworn to and subscribed before me this 15 day of August, 1985.

UNITED STATES DISTRICT JUDGE

Certified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By M. Carter Deputy Clerk
Date 8-15-85

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 174

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS
NO. 412 - Hastings

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE
INTERCEPTION OF WIRE COMMUNICATIONS
/

SEALING ORDER

IT IS HEREBY ORDERED AND ADJUDGED that the within Application for an Order Authorizing the Interception of Wire Communications and Affidavit in support thereof, and Order Authorizing the Interception of Wire Communications and related paperwork, be and the said pleadings are hereby, sealed until further order of the Court; and

IT IS FURTHER ORDERED AND ADJUDGED that the within pleadings be kept in the possession, custody, care and control of the Office of the Clerk of the United States District Court in a safe and secure place until further order of the Court;

IT IS FURTHER ORDERED that the Southern Bell Telephone Company of Miami, Florida, is agents, representatives, and its employees shall not disclose to the subscriber, or to any person, the existence of the investigation, and the Court's order, unless and until otherwise ordered by the Court.

DONE and ORDERED in Miami, Florida, this 15 day of August, 1985.

Certified to be a true and correct copy of the document on file.
Clerk
United States District Court
Southern District of Florida
Carol Tarallo
Deputy Clerk
Date 1-15-89

Alcee L. Hastings
UNITED STATES DISTRICT JUDGE

EXHIBIT 174 HOUSE

MPS:RM:pas

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS
NO. 412- Hastings

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

ORDER AUTHORIZING THE INTERCEPTION OF
WIRE COMMUNICATIONS

Application under oath having been made before me by Jon A. May, Assistant United States Attorney, for the Southern District of Florida, an investigative or law enforcement officer as defined in Section 2510(7) of Title 18, United States Code, for an order authorizing the interception of wire communications pursuant to Section 2518 of Title 18, United States Code, and full consideration having been given to matters set forth therein, the Court finds:

1. There is probable cause to believe that JOHN P. TRONOLONE, JR., also known as "JOHNNY PEANUTS", Douglas Daniel Rago, CORNELIUS J. VANDERWYDE, also known as "BUTCH", KEVIN GORDON, also known as "WAXY", STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU) ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown, have committed, are committing, and are about to commit the below mentioned offenses enumerated in Title 18, United States Code, Section 2516, to wit:

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 175 A+B

EXHIBIT
175a
HOUSE

A. Specifically, as to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, and others as yet unknown:

(1) R.I.C.O. Being associated with an "enterprise" as defined in Section 1961(4) of Title 18, United States Code, that is a group of individuals associated in fact, which enterprise is engaged in, and the activities of which affect, interstate and foreign commerce, comprised of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), Douglas Daniel Rago, CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, and others as yet unknown, and conducting and participating, directly and indirectly, in the conduct of said enterprise's affairs through a pattern of racketeering activity, and conspiring to do so, all in violation of Sections 1962(c) and (d) and 1963 of Title 18, United States Code, said racketeering activity consisting of the following predicate offenses:

(a) Violations of Section 501(c) of Title 29, United States Code, that is, embezzling, stealing, and unlawfully converting the property or other assets of a labor organization;

(b) Violations of Section 1951 of Title 18, United States Code, that is, obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion or attempts or conspiring to do so in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922; and

(c) Acts involving bribery in violation of Florida State Law (Florida Laws §§838.014 et seq.)

(2) Labor Offenses: Violations of Section 501(c) of Title 29, United States Code, by embezzling, stealing and unlawfully converting the property or other assets of a labor organization; and

(3) Hobbs Act Extortion: Violations of Section 1951 of Title 18, United States Code, by obstructing, delaying or affecting commerce or the movement of articles or commodities in commerce, by extortion, or attempts or conspiring to do so, in connection with obtaining employment at the Port of Miami and entry into ILA Local 1922.

B. Specifically, as to STEPHEN NAHAY, in addition to those offenses set forth above, and JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), and others as yet unknown:

(1) Narcotics Offenses: Violations of Sections 841(a)(1), 843(b) and 846 of Title 21, United States Code, involving the possession with intent to distribute and distribution of controlled substances; the use of communication facilities in committing, causing and facilitating the commission of acts set forth above; and conspiring to commit these offenses; and

(2) Interstate Travel in Aid of Racketeering Enterprises: Violations of Section 1952, of Title 18, United States Code, involving travel or use of facilities in interstate commerce with intent to promote, manage, establish, carry on, or

facilitate the promotion, management, establishment, or carrying on of an unlawful business enterprise involving controlled substances, in violation of Title 21, United States Code, and thereafter performing, or attempting to perform acts, to promote, manage, establish, or carry on, or facilitate the promotion, establishment, or carrying on of said unlawful activity.

C. Specifically, as to KEVIN GORDON ("WAXY"), and others as yet unknown, in addition to those offenses set forth above:

(1) Hobbs Act Extortion: Violation of Section 1951 of Title 18, United States Code, by obstructing, delaying, or affecting commerce, or the movement of articles or commodities in commerce, by extortion, or attempts or conspiring to do so, in connection with obtaining zoning changes, permits, and licenses.

D. Specifically, as to RICHARD WILLIAM BRAHAM, and others as yet unknown:

(1) Extortionate Credit Transactions: Violations of Section 892 of Title 18, United States Code, involving the making of extortionate extensions of credit and conspiring to do so.

E. Specifically, as to STEPHEN NAHAY and JACK LOUIS DOOLEY, in addition to those offenses set forth above, and SHARON POLTAREZ, and others as yet unknown:

(1) Wire Fraud: Violations of Section 1343 of Title 18, United States Code, involving a scheme to obtain free long distance interstate telephone calls by using stolen telephone company credit cards.

2. There is probable cause to believe that the telephone facilities set forth below and listed at the below listed prem-

ises, subscribed as indicated below, have been, are being, and will be used by JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown, in connection with the commission of offenses described in Paragraph 1 above, as follows:

A. JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, as to those offenses specified in paragraph 1A, over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
JOHN P. TRONOLONE, JR. 2000 Biarritz Drive, Apt. #207 Miami Beach, Florida	(305) 861-1479

B. JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, as to those offenses specified in paragraph 1A, over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Patricia L. Gordon 20180 N.W. 14 Court Miami, Florida (Residence of KEVIN GORDON)	(305) 653-0724

C. CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, and others as yet unknown, as to those offenses specified in paragraph 1A, and RICHARD WILLIAM BRAHAM, and others as yet unknown as to those

offenses set forth in paragraph 1D, over the following telephones:

SUBSCRIBER & LOCATION	TELEPHONE NUMBERS
City of Surfside 9293 Harding Avenue Surfside, Florida	(305) 861-4863 (main number) 861-4864 (subsidiary number) 861-4865 " 861-4866 "

D. JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), and others as yet unknown, as to those offenses set forth in paragraph 1A, and of STEPHEN NAHAY, and others as yet unknown, as to those offenses set forth in paragraphs 1A, 1B, and 1E, and of KEVIN GORDON ("WAXY"), and others as yet unknown, as to those offenses set forth in paragraphs 1A, and of JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), and others as yet unknown, as to those offenses set forth in paragraphs 1B, and of JACK LOUIS DOOLEY, SHARON POLTAREI, and others as yet unknown, as to those offenses set forth in paragraph 1E, over the following telephone:

SUBSCRIBER & LOCATION	TELEPHONE NUMBER
Johnny Rivero 4000 N.E. 169th Street Apt. 401 Miami, Florida	(305) 947-0818

3. There is probable cause to believe that particular wire communications of JOHN P. TRONOLONE, JR. ("JOHHNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIEEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREI, and others as yet unknown, concerning the above-mentioned offenses will be

obtained through the wire interceptions. In particular these wire communications will concern:

A. As to JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, and others as yet unknown, conversations involving illegal labor union activities; unlawful waterfront activities; the prohibited receipt of money or things of value for labor union officers and employees, and persons who purport to control ILA Local 1922; the dates, times, places, amounts and methods of transfer of such illicit payments so received; identification of co-conspirators, and aiders and abettors in causing such illegal payments to be made.

B. As to STEPHEN NAHAY, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), and others as yet unknown, the conversations over telephone (305) 947-0818 will also include arrangements for, plans for, and payments for, the illegal purchase, sale, distribution, and interstate transportation of controlled substances.

C. As to RICHARD WILLIAM BRAHAM, and others as yet unknown, the conversations over telephone facilities (305) 861-4863, (305) 861-4864, (305) 861-4865, and (305) 861-4866 will also include arrangements for, plans for, and payments for, the extortionate extensions of credit; the dates, times, places, amounts and methods of such payments and extensions of credit; identification of co-conspirators, and aiders and abettors in causing such arrangements.

D. As to STEPHEN NAHAY, JACK LOUIS DOOLEY, SHARON POLTAREZ, and others as yet unknown, the conversations over telephone (305) 947-0818 will also involve a scheme for obtaining free long distance interstate telephone calls by using stolen telephone company credit cards; the dates, times, and methods of such arrangements; identification of co-conspirators, and aiders and abettors involved in such scheme.

4. Normal investigative procedures either have been tried without success and reasonably appear unlikely to succeed if tried or appear to be too dangerous, for specific reasons more fully set forth in the Application and Affidavit and applicable attachments submitted in support of this Order. In addition, these communications are expected to constitute admissible evidence of the commission of the offenses.

WHEREFORE, it is hereby Ordered that Special Agents of the Federal Bureau of Investigation are authorized, pursuant to the Application authorized by the Assistant Attorney General for the Land and Natural Resources Division, the Honorable F. Henry Habicht, who has been specially designated by the Attorney General of the United States to exercise the power conferred on him by Section 2516 of Title 18, United States Code, to intercept wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown, concerning the offenses set forth in paragraph 1,

to and from the telephone facilities as set forth in paragraph 2 above. Such interceptions shall not automatically terminate when the type of communications described above in paragraph 3 has been first obtained, but shall continue until communications are intercepted which reveal the full and complete manner in which the above-named individuals and others as yet unknown have committed and are committing the aforementioned offenses referred to herein, the identities of the participants and co-conspirators in those offenses, their places of operation, the individual acts committed by aiders and abettors and co-conspirators in those offenses, the extent of participation in those offenses by aiders and abettors and co-conspirators, and the full and complete nature and scope of the conspiracy involved, or for a period of thirty (30) days from the date of this Order, whichever is earlier.

PROVIDING THAT, this authorization to intercept wire communications shall be executed as soon as practicable after the signing of this Order, and shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under Chapter 119 of Title 18 of the United States Code, and must terminate upon attainment of the authorized objectives or, in any event, at the end of thirty (30) days from the date of this Order: Interception will be suspended immediately when it is determined through voice identification, physical surveillance, or otherwise, that none of the named interceptees or any of their confederates, when identified, are participants in the conversation, unless it is determined during

the portion of the conversation already overheard, that the conversation is criminal in nature. Even if one or more of the named interceptees or their confederates, when identified, is a participant in a conversation, monitoring will be suspended if the conversation is non-criminal in nature or otherwise related to the offenses under investigation.

IT IS FURTHER ORDERED pursuant to Title 18, United States Code, Section 2518(4), that the Southern Bell Telephone Company of Miami, Florida, a communication common carrier as defined in Title 18, United States, Section 2510(10), shall furnish the agents and employees of the Federal Bureau of Investigation, forthwith, all information, facilities and technical assistance necessary to accomplish the interceptions unobtrusively and with a minimum of interference with the services that such carrier is according the persons whose communications are to be intercepted, the furnishing of such facilities or technical assistance by the Southern Bell Telephone Company to be compensated for by the Federal Bureau of Investigation at the prevailing rates, and that the Southern Bell Telephone Company, its representatives, agents and employees shall not disclose in any manner, directly or indirectly, to the listed subscriber, nor to any other person, the existence of this or any other order in this matter until ordered to do so by this Court.

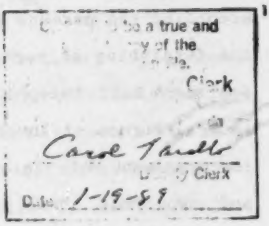
IT IS FURTHER ORDERED that this authorization shall extend to the interception of wire communications occurring at any hour of the day or night during the period for which authorization is granted.

20-964 O—89——50

PROVIDING ALSO, that Jon A. May, or any other Assistant United States Attorney, Southern District of Florida, shall provide the Court with a report showing what progress has been made toward achievement of the authorized objectives and the need for continued interception, on the 7th, 14th, 21st, 28th and 30th days following the signing of this Order.

DONE and ORDERED in Miami, Florida, this 15 day of August, 1985, at 11:00 (a.m.) (p.m.).

UNITED STATES DISTRICT JUDGE



MPS:RM:sg

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412-Hastings

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES OF AMERICA
FOR AN ORDER AUTHORIZING THE
INTERCEPTION OF WIRE COMMUNICATIONS
/

REDACTED (FOR SOUTHERN BELL) ORDER
AUTHORIZING INTERCEPTION OF WIRE
COMMUNICATIONS

Application under oath having been made before me by Mark P. Schnapp, Assistant United States Attorney for the Southern District of Florida, and being an "investigative or law enforcement officer" as defined in Section 2510(7) of Title 18, United States Code, for an order authorizing the interception of wire communications pursuant to Section 2516 of Title 18, United States Code, and full consideration having been given to the matters set forth therein:

IT IS HEREBY ORDERED that Special Agents of the Federal Bureau of Investigation (FBI) are authorized pursuant to the application authorized by the Assistant Attorney General in charge of the Criminal Division, the Honorable Stephen S. Trott, who has been specifically designated by the Attorney General of the United States, to exercise the power conferred on him by Section 2516, Title 18, United States Code, to intercept wire communications to and from the following telephones: (305) 861-1479, 2000 Biarritz Drive, Apt. 207, Miami Beach, Florida; (305) 653-0724, 20180 N.W. 14 Court, Miami, Florida; (305)

861-4863 (main number), 861-4864 (subsidiary number), 861-4865 (subsidiary number), 861-4866 (subsidiary number), 861-5034 (subsidiary number), 9293 Harding Avenue, Surfside, Florida; (305) 651-5623, 270 N.W. 189th Terrace, Miami, Florida; and (305) 947-0818, 4000 N.E. 169th Street, Apt. 401, Miami, Florida, for a period of thirty (30) days from the date of this order.

IT IS FURTHER ORDERED that the Southern Bell Telephone Company of Miami, Florida, a communication common carrier as defined in Section 2510(10) of Title 18, United States Code, shall furnish the agents and employees of the FBI, forthwith, all information, facilities, and technical assistance necessary to accomplish the interceptions unobtrusively and with a minimum of interference with the services that such carrier is according the persons whose communications are to be intercepted, the furnishing of such facilities or technical assistance by the Southern Bell Telephone Company of Miami, Florida, to be compensated for by the FBI at the prevailing rates.

Providing that this authorization to intercept wire communications shall be executed as soon as practicable after signing of this order and shall be conducted in such way as to minimize the interception of communications not otherwise subject to interception under Chapter 119 of Title 18, United States Code, and must terminate upon attainment of the authorized objectives or, in any event, at the end of the thirty (30) days from the date of this order.

IT IS FURTHER ORDERED that this authorization shall extend to the interception of wire communications occurring at any hour

of the day or night during the period for which authorization is granted.

IT IS FURTHER ORDERED, that this order is sealed and that the Southern Bell Telephone Company, of Miami, Florida, its representatives, Agents, and employees shall not disclose to the listed subscribers of the said telephone numbers, nor to any other person, the existence of this order, or the existence of this investigation or of the devices used to accomplish the aforementioned interception unless and until otherwise ordered by the Court.

DONE and ORDERED in Miami, Florida, this 15 day of July, 1985 at 10:55 (a.m.) (p.m.).

Alan S. Gold
UNITED STATES DISTRICT JUDGE

Certified to be a true and correct copy of the original
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By W. Cole
Date 7-15-85

Certified to be a true and correct copy of the original
Clerk
Carol Jacobs, Clerk
Date 1-23-89

INSTRUCTIONS FOR THE EXECUTION OF A FEDERAL COURT ORDER AUTHORIZING THE CONTINUED INTERCEPTION OF WIRE COMMUNICATIONS

I. SUBJECTS

The following individuals are the subjects of a federal court order authorizing the interception of wire communications:

1. JOHN P. TRONOLONE, JR a/k/a "Johnny Peanuts", and
2. CORNELIUS J. VANDERWYDE a/k/a "Butch", and
3. KEVIN GORDON a/k/a "Waxy", and
4. STEPHEN NAHAY, and
5. OTHERS AS YET UNKNOWN

II. PRELIMINARY INSTRUCTIONS

Your objective is to faithfully execute a Court Order authorizing the interception of wire communications ("the Interception Order"). You must intercept only those conversations designated in the Interception Order, only for the crimes designated in the Interception Order; and must minimize the interception of privileged and/or non-pertinent conversations as set forth in the Interception Order. FAILURE TO FAITHFULLY EXECUTE THE INTERCEPTION ORDER COULD RESULT IN THE SUPPRESSION OF INTERCEPTED CONVERSATIONS. 18 U.S.C. Section 2518(5) and (10).

Before electronic surveillance begins, all monitoring agents must read the Interception Order and the Application and Affidavit submitted in support of that Order. All monitoring agents should carefully read, and be intimately familiar with, those

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HOUSE MANAGERS' EXHIBIT 176

EXHIBIT 176 HOUSE

portions of the Interception Order which list the federal crimes of concern. FURTHERMORE, ALL MONITORING AGENTS MUST DATE AND SIGN A COPY OF THE INTERCEPTION ORDER.

At the outset of the electronic surveillance, these instructions concerning the proper approach to the executing of the Interception Order will be disseminated to the monitoring agents and posted at the monitoring site. These instructions have been drafted and disseminated for the purpose of insuring that all monitoring agents: (a) uniformly follow these instructions; and, (b) consistently apply these instructions with respect to their minimization efforts. ALL MONITORING AGENTS SHOULD THOROUGHLY FAMILIARIZE THEMSELVES WITH THESE INSTRUCTIONS AND UTILIZE THEM AS A QUICK REFERENCE.

III. PARTICULARIZED INSTRUCTIONS

A. There is no Legal Difference Between Listening, Monitoring, or Recording

The law does not distinguish between "listening," "monitoring" or "recording" a conversation. Courts generally regard an interception order like any other search warrant: it authorizes a limited "search," and limited "seizure," i.e., interception of evidence. Whether a conversation is merely overheard or also recorded makes no difference legally; it has been intercepted.

If you intercept everything, the fruits of your investigation are likely to be suppressed. We have to establish

that we neither LISTENED or nor RECORDED conversations we have no right to overhear.

B. Never Leave A Machine Unattended On "Automatic"

No machine is to be left unattended on "automatic." The statutory requirement of minimization requires the monitoring agents to determine whether or not each conversation is relevant and subject to interception.

C. Record Any Conversation Or Part Thereof That Is Monitored

Any time a conversation or any part thereof is monitored, it should be recorded. If the machine has a separate monitor switch, that switch must not be activated unless the machine is recording. However, if the machine malfunctions, or a tape has just run out, monitoring is permissible while the situation is being remedied. Be sure to report the overheard conversation in the logs, estimating the length of the conversation and describing the reason for the failure to record.

D. Conversations Which May Be Intercepted

The Interception Order authorizes you to intercept the wire communications of JOHN P. TRONOLONE, JR ("Johnny Peanuts") CORNELIUS J. VANDENWYDE ("Butch"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and OTHERS AS YET UNKNOWN, concerning the offenses set forth in paragraph 1 of the Order, to and from the telephone facilities

set forth in paragraph 2 of the Order. The Order further authorizes that such interceptions shall not automatically terminate when the type of communications described in paragraph 3 of the Order has been first obtained, but shall continue until communications are intercepted which reveal the full and complete manner in which the above-named individuals and others as yet unknown have committed and are committing the aforementioned offenses referred to in the Order, the identities of the participants and co-conspirator in those offenses, their places of operation, the individual acts committed by aiders and abettors and co-conspirators in those offenses, the extent of participation in those offenses by aiders and abettors and co-conspirators, and the full and complete nature and scope of the conspiracy involved. Listen to the beginning of each conversation only so long as is necessary to determine the identities of the parties and the nature and character of the conversations.

WARNING: If you determine that the parties to, or the nature and character of, a conversation are not covered by the Interception Order, IMMEDIATELY AFTER MAKING THOSE DETERMINATIONS, TURN OFF THE MACHINES (THAT IS, BOTH THE LISTENING AND RECORDING DEVICES).

E. Spot Monitoring or Spot Checking

If a conversation does not, during the initial 30 to 60 seconds, fall within the category specified in the warrant, the recording and listening devices must be turned off. However, it is possible that some time after the machine has been turned off, the parties might begin to discuss the violations of federal law set forth in the Interception Order. To guard against missing such conversation, check periodically (SPOT-CHECK) by activating the monitor and record switch every 30 to 60 seconds

or so to determine if the parties to, or nature of, conversations have changed to those covered in the Interception Order. LISTEN FOR A FEW SECONDS. If during this brief period evidence of our named parties and violations of federal laws set forth in the Interception Order are intercepted, keep listening and recording. If no such evidence is intercepted, TURN OFF THE MACHINE (STOP LISTENING AND STOP RECORDING). Specifically note and enter in the daily logs the beginning and ending time, the duration of, and the substance of, each spot check.

Continue to spot check as the circumstances indicate. Use your judgment as to when to spot check because many factors enter into your decision: the parties to the conversations, the precise relationship of the parties, the length of relationship, the number of conversations between the parties, the present status of the investigation, the past conduct of the parties, and whether the parties are speaking in code, or in veiled or ambiguous language, etc.

However, there are two possible exceptions to this general rule regarding spot checking: "patterns of innocence" and "patterns of involvement."

(1) Patterns of Innocence

If, after several days or weeks of electronic surveillance, you have learned that conversations between the named subjects and a particular individual or individuals are invariably innocent, no-crime-related matters, then a "Pattern of Innocence" exists and such conversations should no be recorded, listened to or even spot-checked.

(2) Patterns of Involvement

If, during the course of the electronic surveillance, one or more individuals is identified (by name, nickname, voice, etc.) as a co-conspirator or accomplice of the named subjects, and there is no applicable privilege involved (Subsection IV, I), the "spot-checking" requirement may be relaxed somewhat as to conversations between our subject and those individuals.

F. Evidence of Other Crimes: Action Required

You do not have authorization to intercept conversations concerning the planning or commission of crimes which are not listed in the Interception Order. Electronic surveillance must be conducted with our sole legal purpose in mind: the interception of conversations between the named subjects and co-conspirators and accomplices involving the specific violations listed in the Interception Order.

However, you do not have to terminate intercepts if other serious crimes are being discussed, e.g., arson, robbery, etc. In that event, continue to record that conversation, but NOTIFY ME IMMEDIATELY.

Your sole purpose must be to intercept conversations concerning specific federal violations enumerated in the Order. When you are monitoring, KEEP THAT IN MIND AT ALL TIMES.

G. Conversations In Which Our Named Subjects Are Not Participants

As a general rule, if none of the participants in a conversation is an enumerated subject, that conversation is beyond the scope of the Interception Order and must not be listened

to or recorded.

However, in executing the Interception Order, you have the right to insure that the enumerated subjects do not begin to discuss facts involving the enumerated federal violations after the initial part of a conversation.

Therefore, in my opinion, it is permissible to listen to a conversation which does not involve any named subjects for a brief period of time. If our subjects do not participate within the first 30 to 60 seconds or so, you must stop listening and turn off the machine. (This time frame is only a guide -- in certain cases you can, within a much shorter period, make a determination of non-pertinency). Thereafter, you may do no more than spot-check the conversation. (SEE SUBSECTION ON SPOT-CHECKING).

H. New Subjects

One of our stated and authroized purposes in conducting this investigation is to IDENTIFY other co-conspirators and/or accomplices in the above-mentioned activities.

As soon as any such individual is identified, I should be notified immediately.

I. Privileged Communications

You may not listen to any conversation which would fall under any legal privilege. The general categories of privileged communications are as follows: attorney-client, priest-penitent, doctor-patient, and husband-wife.

ADDITIONAL INSTRUCTIONS FOR AGENTS INVOLVED IN THIS INVESTIGATION

The recordings should be protected from editing or alterations. This requirement of 18 U.S.C. §2518(a) is satisfied by adherence to the following procedures:

(a) The original recording should be placed in a sealed envelope, box, or similar container, after making of the duplicate recordings referred to below, and kept in the custody of the investigative agency until made available to the Court immediately at the expiration of the period of the order for the Court's sealing.

(b) A chain of custody form should accompany the original recording. On this form should be a brief statement signed by the supervising agent which identifies:

(1) The order authorizing the recorded interceptions (by number if possible);

(2) The date and time period of the recorded conversations;

(3) The identity of the primary subjects whose conversations were recorded; and

(4) The place or facility where or over which the recorded communications occurred.

(c) The form should indicate to whom, if anyone, the supervising agent has transferred custody of the original recording, and the date and time of transfer. Each subsequent transfer, including that to the Court, should be similarly noted on the form.

(d) The agent conducting the recording should mark a label attached to the original tape reel to identify it as corresponding with the accompanying chain of custody form. The date of the recording should also be marked on the label and initialed by the agent.

(e) Each agent signing the chain of custody form should be prepared to testify that the original tape, while in his custody, was kept from the access of third parties and was not altered in any manner. It is the responsibility of the investigative agency to insure that the original recordings in their custody will be maintained in such a manner as to insure their admissibility in evidence over objections to the integrity of the recordings.

Duplicates of the original tapes of pertinent conversations should be made by the investigative agency for use in the investigation. This necessary procedure, authorized under 18 U.S.C. §2518(8)(a) should, of course, be done prior to sealing of the original and if technically possible it is suggested it be accomplished simultaneously with the interception and recording of communications on the original tape.

(1) Attorney-Client

Consider this an absolute rule: NEVER knowingly listen to or record a conversation between a subject and his attorney when the conversation involves an attorney-client relationship.

If there are any conversations between any of the subjects and any of their attorneys you are NEVER to listen to ANY portion of ANY of these conversations at ANY time. To listen to any conversation with any of these attorneys could result in the dismissal of a pending indictment. If you should listen to a conversation with an unknown individual and you determine that this individual is an agent or an employee of one of these attorneys, you should instantly cease monitoring and recording the conversation. If you happen to accidentally monitor a conversation with one of these attorneys or an attorney's agent or employee, make a note of that conversation and its contents and immediately notify your supervisor and me; but, until given further instructions, DO NOT relate to anyone (including the supervisor, and/or any other Agent) the substance of that conversation.

If at any time during the investigation we learn of the name(s) and/or telephone number(s) of any attorneys retained by our subjects, such names and telephone numbers are to be posted in a conspicuous place in the monitoring site. Any dial-outs to such telephone numbers reflected contemporaneously by the pen register require that the recorder and monitoring device be turned off as soon as it is ascertained that is an attorney who is being called by our subject, or spoken to by our subject.

(2) Priest-Penitent

All conversations between an individual and his clergyman are to be considered privileged. We could not obtain an interception order to listen to a man confess his sins to a priest in a confessional booth; similarly, we must not listen to a subject discuss his or her personal, financial or legal problems with his or her priest, minister rabbi, etc.

(3) Doctor-Patient

Any conversations a patient has with a doctor relative to diagnosis, symptoms, treatment or any other aspect of physical, mental or emotional health is privileged. The instant it is learned that our subject is talking to a doctor about his health (or someone else's health), TURN OFF THE MACHINE (STOP LISTENING AND STOP RECORDING).

(4) Husband-Wife

Any conversation between a husband and his wife which relates in any way to the marital relationship is privileged.

For Example:

If they discuss their sex life - DON'T LISTEN. DON'T RECORD.

If they discuss problems their child is having in school - DON'T LISTEN. DON'T RECORD.

If they discuss a fight or argument they had last night or a week ago - DON'T LISTEN. DON'T RECORD.

However, it may be that one of our subject's wife or husband acts as a partner, message-taker or message-deliverer for our subjects. Therefore a limited degree of spot-monitoring may be maintained if a subject calls his or her spouse. (See Section IV, E above). If a pattern develops demonstrating that one of our subject's spouse is in fact deeply involved in our subject's dealings, NOTIFY ME IMMEDIATELY.

(5) Other Relationships

No legal privilege exists with respect to conversations between a subject and the following types of individuals:

(a) paramours
(b) accountants
(c) bankers and representatives of legal financial institutions
(d) insurance agents
(e) children
(f) private investigators
(g) media (i.e. television and/or newspaper) reporters
(h) creditors

HOWEVER, KEEP IN MIND THAT YOUR FUNCTION IS TO INTERCEPT AND RECORD CONVERSATIONS RELATED TO VIOLATIONS OF SPECIFIC FEDERAL STATUTES, NOT TO INDISCRIMINATELY INVADE THE PRIVACY OF THE NAMED SUBJECTS AND/OR OTHERS. In general, follow the "SPOT-CHECKING" rules outlined in subsection IV, if conversations in this category are intercepted.

J. Conversations Between the Named Subjects And Unknown Individuals

Even if a conversation between the named subjects and other, unknown individuals does not fall within the ambit of one of the privileged communciations discussed above, that does not automatically mean you have a right to listen to and record the entire conversation. You have authority to listen to and record only those conversations which pertain to violations of the statutes enumerated in the court's order.

In order to meaningfully execute the Interception Order, it may be necessary to listen to non-privileged conversations, which in fact do not relate to authorized conversations at all, and which do not involve a co-conspirator, accomplice, agent, etc., of our subject. Hence, you may wind up listening to and recording conversations which, at the time, sound like they involve violations of the enumerated statutes, but which, later turn out to be innocent exchanges between a named subject and someone who is completely uninvolved in any illegal activity.

In my opinion, the Courts will not suppress pertinent conversations simply because some non-privileged and non-pertinent conversations have been intercepted. However, bear in mind that eventually a Court will have to decide whether you executed the Interception Order in a manner specified by the Court.

The standard the Court will apply in determining whether your listening to non-pertinent conversations was overbroad is:

> The existence vel non of.... a violation of the Fourt Amendment of the United States Constitution or of 18 U.S.C. Section 2510-2520 turns on an objective assessment of the officer's actions in light of the facts and circumstances confronting him at that time. Subjective intent alone . . . does not make otherwise lawful conduct illegal or unconstitutional. Scott v. United States, 436 U.S. 128, at 136 to 140 (1978).

> The minimization standard applies to a test a reasonableness to the peculiar facts of each case . . . . Three factors are considered in deciding whether attempts to minimize were reasonable: (1) the nature and scope of the criminal enterprise under investigation; (2) the Government's reasonable interference of the character of a conversation from the parties to it; and, (3) the extent of judicial supervision. United States v. Hyde, 574 F.2d 856, 869 (5th Cir. 1978); United States v. Feldman, 606 F.2d 673, 678 (6th Cir. 1979), cert. denied, 445 U.S. 961 (1980).

X. City of Surfside

In connection with the request of intercept telephone conversations from the facilities subscribed to by the City of Surfside, it is recognized that many telephone calls to or from that location may involve legitimate governmental functions.

L. Daily Plant Report (Log)

Abstracts or summaries of each conversation are to be made at the time of interception and are to be included in the logs. If the conversation was not entirely recorded, an appropriate notation should be made indicating the incomplete nature of the conversation (e.g., monitoring discontinued) and why the conversation was not completely recorded (e.g., non-pertinent, privileged). Where the exact words used by the participants are important, that portion of the conversation should be delivered to the supervising attorney at the beginning of the following day or as soon as possible.

The logs should reflect all activity occurring at the monitoring site, concerning the intercepted conversations, pertaining to the equipment itself (e.g., replaced reel #2 w/#3;

malfunction with recorder; no overheard conversation; summarized, etc.) These logs will ultimately be used by you to explain and to reflect your action taken in intercepting or not intercepting a particular communication. Therefore, it is vitally important to succinctly describe the parties to the conversations (e.g., Lou to Bill, unknown to unknown, etc.) and conversations, the nature and character of the conversation (e.g., discussed landscaping or antiques, etc.), and the action taken (e.g., monitor discontinued, non-pertinent or privileged, etc.). If you use abbreviations, e.g. "non-pert.", "priv.", please be sure that all monitoring agents use the same abbreviations to eliminate any possibility of later confusion. All monitoring agents will record the approximate time (in minutes) the monitor is turned on and approximate time the monitor is turned off. The actual length of any interception will be determined by the transcribing agents at the Miami Office.

The daily statistic sheet is extremely important for our reports to the issuing Judge and ultimately to the Court which will litigate the issue of minimization. If you keep a running count of the subject and the nature of the conversations, our efforts in preparing for any hearing or trial will be greatly facilitated.

The Judge of the United States District Court who issued the Interception Order has required us to make periodic reports to him about the progress of the investigation and the manner in which the Interception Order is being executed. When he wants such reports, I am the person he will ask for them. These reports are due (TYPED) EACH SEVENTH DAY.

* * *

The time may come when a search warrant, additional intereeption orders or some other legal advice or decision may be needed. I am the one you will come to for that assistance.

If I am to perform these tasks, I must be advised of developments daily by the Supervising Agent and of emergencies or fast-breaking events immediately by the monitoring agents. This necessarily means that I must receive a copy of all logs, transcripts and surveillance reports regularly.

You may reach me by phone at the following numbers (305) 350-5435 - Miami office; (305) 443-5073 - home (Miami, Florida). If you can not reach me, call AUSA Mark Schnapp at (305) 350-5438 - Miami Office or (305) 858-9082 - Home (Miami, Florida), or AUSA Jon May at (305) 350-5420 - Miami Office or (305) 652-8060 - Home (Miami, Florida).

DO NOT HESITATE TO CALL AT ANY TIME OF THE DAY OR NIGHT FOR ADVICE.

JON A. MAY
Assistant United States Attorney
155 S. Miami Avenue
Miami, Florida 33130

ADDITIONAL INSTRUCTIONS FOR AGENTS INVOLVED IN THIS INVESTIGATION

The recordings should be protected from editing or alterations. This requirement of 18 U.S.C. §2518(a) is satisfie by adherence to the following procedures:

(a) The original recording should be placed in a sealed envelope, box, or similar container, after making of the duplicate recordings referred to below, and kept in the custody of the investigative agency until made available to the Court immediately at the expiration of the period of the order for the Court's sealing.

(b) A chain of custody form should accompany the original recording. On this form should be a brief statement signed by the supervising agent which identifies:

(1) The order authorizing the recorded interceptions (by number if possible);

(2) The date and time period of the recorded conversations;

(3) The identity of the primary subjects whose conversations were recorded; and

(4) The place or facility where or over which the recorded communications occurred.

(c) The form should indicate to whom, if anyone, the supervising agent has transferred custody of the original recording, and the date and time of transfer Each subsequent transfer, including that to the Court should be similarly noted on the form.

(d) The agent conducting the recording should mark a label attached to the original tape reel to identify it as corresponding with the accompanying chain of custody form. The date of the recording should also be marked on the label and initialed by the agent.

(e) Each agent signing the chain of custody form should be prepared to testify that the original tape, while in his custody, was kept from the access of third parties and was not altered in any manner. It is the responsibility of the investigative agency to insure that the original recordings in their custody will be maintained in such a manner as to insure their admissibility in evidence over objections to the integrity of the recordings.

Duplicates of the original tapes of pertinent conversations should be made by the investigative agency for use in the investigation. This necessary procedure, authorize under 18 U.S.C. §2518(8)(a) should, of course, be done prior to sealing of the original and if technically possible it is suggested it be accomplished simultaneously with the interception and recording of communications on the original tape.

Preparation of Transcripts. A verbatim transcript covering all pertinent, non-privileged communications recorded during the entire period of the interception should be prepared by the supervisory agent and furnished to the supervisory attorney. This transcript should be made and furnished on a daily basis if possible. In the event the supervising agent determines that preparation of a complete transcript on a daily basis would be impracticable due to a heavy volume of intercepted communications or other considerations, he may prepare a daily partial transcript which will be given to the supervisory attorney and used in connection with the investigation or subsequent proceedings and a more complete verbatim transcript of all pertinent conversations should be delivered to the supervisory attorney as soon as possible after the conclusion of the period of interception.

PLEASE PREPARE THESE TRANSCRIPTS ON UNMARKED UNLINED 8 1/2 X 11 inch SIZED PAPER (TYPED). THE AGENT WHO MONITORED THE INTERCEPTED CONVERSATIONS MUST REVIEW BOTH TRANSCRIPTS AND INITIAL THEM ON THE REVERSE SIDE OF EACH PAGE.

Certified to be a true and correct copy of the document on file.
[illegible] March, Clerk
U.S. District Court
[illegible] District of Florida
[signature]
Deputy Clerk
Date 1-23-89

United States Senate
JAM:jc
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 177

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NO. 412-Hastings

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER AUTHORIZING THE CONTINUED USE OF PEN REGISTER DEVICES /

ORDER AUTHORIZING AN EXTENSION FOR THIRTY (30) DAYS OF PEN REGISTER DEVICES

The United States of America having applied for an order authorizing the continued use of pen register devices, and directing the communication common carrier to furnish the information, facilities and technical assistance necessary to unobtrusively accomplish the use of a pen register, and;

It appearing from the application that it has been made in good faith in furtherance of a pending criminal investigation, it is hereby

ORDERED:

A. Pursuant to Federal Rule of Criminal Procedure 57(b), Special Agents of the United States Department of Justice, Federal Bureau of Investigation, are authorized to operate and continue to operate the requested registering devices registering telephone numbers originating from and to which calls are made on the following telephones:

TELEPHONE NUMBERS	SUBSCRIBERS
(305) 861-4863 861-4864 861-4865 861-4866	City of Surfside 9293 Harding Avenue Surfside, Florida
(305) 947-0818	Johnny Rivero 4000 N.E. 169th Street Apt. 401 Miami, Florida

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(305) 653-0724 — Patricia L. Gordon, 20180 N.W. 14 Court, Miami, Florida

(305) 861-1479 — John P. Tronolone, Jr., 2000 Biarritz Drive, Apt. 207, Miami Beach, Florida

for a period not to exceed thirty (30) days from this order; and

C. Pursuant to Title 28, United States Code, Section 1651(a), All Writs Act, the Southern Bell Telephone Company of Miami, Florida, shall forthwith provide Special Agents of the United States Department of Justice, Federal Bureau of Investigation, with all of the information, facilities and technical assistance necessary to accomplish the continued use of the devices to register telephone numbers called from the aforesaid numbers unobtrusively and with a minimum of interference to the telephone service which are the subject of the registering device; and

C. The Southern Bell Telephone Company of Miami, Florida, shall be compensated by the applicant at the prevailing rates; and

D. This order, and the supporting application, are sealed and shall remain in the custody of the United States Department of Justice; and that the Southern Bell Telephone Company, of Miami, Florida, its agents and employees shall not disclose to the subscriber, or to any other person, the existence of the investigation, this application and order; or that a pen register device was used, unless and otherwise ordered by the Court.

And it is

FURTHER ORDERED that, unless sooner renewed, this order will automatically terminate thirty (30) days from today.

DONE and ORDERED in Miami, Florida, this 15 day of August, 1985 at 11:02 (a.m.)(p.m.).

A.M.

UNITED STATES DISTRICT JUDGE

Certified to be a true and correct copy of the original.

CLERK

By: Carol Tarabella
DEPUTY CLERK

Date: 11-9-89

MPS:zbt
IBMIRD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

SEALING ORDER

It is hereby ordered that the within First Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 22 day of August, 1985.

UNITED STATES DISTRICT JUDGE

Certified to be a true and
... cf the
... Clerk
Carol Tardo
... Clerk
1-19-89

... States Senate
... TRIAL before the IMPEACHMENT
HOUSE MANAGERS' EXHIBIT 178

EXHIBIT
178
HOUSE

MPS:zbt
RMWIRE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

FIRST PROGRESS REPORT
August 22, 1985

This report is made pursuant to the Order entered by this Court on August 15, 1985, and covers the period from August 15, 1985 up to and including August 21, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others yet unknown.

2. The interceptions authorized pursuant to the July 15, 1985 Order began on July 15, 1985 at 1:00 p.m. and were terminated on August 14, 1985, at 10:30 a.m.

3. On August 15, 1985, at 11:00 a.m. the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the continued interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J.

VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, and the interception of wire communications of PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown.

4. The interceptions of wire communications on all telephone facilities authorized pursuant to the Court's Order of August 15, 1985, began on August 15, 1985, at 11:15 a.m.

5. The "Fifth Progress Report", dated August 14, 1985, reported the pertinent activity and the minimization statistics for the period from August 12, 1985 up to and including the termination of the initial order on August 14, 1985 (the "Fifth Progress Report" incorrectly stated that the period reported included from August 12, 1985, up to and including August 13, 1985).

6. I have reviewed the interceptions made pursuant to the Court's Order of August 15, 1985, with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which have been intercepted during the period from August 15, 1985, up to and including August 21, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

7. During the period beginning August 15, 1985, up to and including August 21, 1985, there were the following number of interceptions and minimizations:

	Total Number of Telephone Conversations Intercepted	Total Number of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. TRONOLONE, Jr.)	45	30
(305) 653-0724 (Residence of KEVIN GORDON)	68	61
(305) 861-4863 (main #)	172	153
861-4864 (sub. #)	121	118
861-4865 (sub. #)	138	128
861-4866 (sub. #) (City of Surfside City Hall)	9	8
(305) 947-0818 (Residence of JOHNNY RIVERO)	53	35

SUMMARY OF PERTINENT ACTIVITY

8. On August 15, 1985, at 12:43 p.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from KEVIN GORDON ("WAXY"). WAXY asked Rivero whether he (Rivero) could get the money available in one day if Penny (PENDLETON SIZEMORE) requested it. Rivero replied that he had the cash available.

9. On August 16, 1985, at 9:30 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to PENDLETON SIZEMORE at (305) 884-0661. The following is a transcription of the pertinent portion of the telephone conversation:

PS: PENDLETON SIZEMORE

KG: KEVIN GORDON ("WAXY")

KG: Hey Good morning Penny. Kevin.

PS: Hey, how are you doing?

KG: Pretty good baby, we had contact with our fellow?

PS: Huh, talked to two or three people and they say there ain't no way that it can happen. They said they have got a ruling that is strongly being enforced throughout the whole country, that a man has to work so many, a certain length of time before he can consider membership and it would have to be proved and if an official takes someone in other than along those guidelines that he can be expelled. So they said it ain't no way.

KG: I see.

PS: That organization has really really clamped down.

KG: Huh.

PS: It really surprised me because I didn't think none of them would clamp down that hard, but uh, obviously they have so many problems that they had to address them and this was one of them.

KG: Well you know, the big thing was just getting the card, he didn't want to go to work.

PS: Yeah but the card, that's, that's the part, going to work, there ain't no work of course.

KG: Yeah, yeah.

PS: It's the card, see they are, so many of them have been accused of just handing out cards to friends and associates. That has nothing to do with the industry, they clamped down on then (UI) produced a penalty if one of them happens to get caught.

KG: Uh huh.

PS: I was told that, because there is no way, not only here but they said it is all over the country.

KG: Uh huh.

PS: So, I don't know.

KG: O.k. I'll give him...

PS: (UI) they are all running scared now because of so much publicity in the past and so many things happening in the past, that they are sticking to those guidelines close as hell. Right now.

KG: Ok babe.

PS: So I am sorry, I wish the hell something could have (UI)

KG: You know you gave it your best shot.

PS: If it can't happen, it can't happen.

KG: I figured for 10 thou, that it might do something you know.

PS: They would be scared of that, they would rather do it for nothing, to tell you the damn truth, that's what they told me. They said if it could be done, they said we would do it for you, as a friend, for nothing, quicker than we would- that way.

KG: Uh huh.

Ø.K. Pen I'll let him know. Huh, where are you going to be today?

PS: I'm stopping by there about 1:30

KG: I've got to meet with somebody, if I can break free I'll stop up there.

PS: Ok.

KG: I'm not sure I will.

10. On August 20, 1985, at 9:58 p.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 653-0724 to (305) 945-4999 (telephone number subscribed to the Hocke Shoppe, at 684 N.E. 167th Street, North Miami Beach) WAXY asked to speak with "Rick" (RICHARD WILLIAM BRAHAM, WAXY's shylock). An unknown individual stated that "Rick" was not in. WAXY then stated that he was out of town in Jacksonville and would meet "Rick" on Thursday at 1:00 p.m., at the same place. (WAXY usually meets with BRAHAM at the Tin Lizzie Restaurant. As of this telephone call, WAXY was late on five payments to the shylock).

11. On August 20, 1985, at 11:30 a.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to telephone number (718) 366-8557, and spoke with STEPHEN NAHAY. Rivero and NAHAY spoke about retaining the services of Billy Risk, a North Bay Village police officer, to provide protection to Rivero's people in offloading narcotics from a boat onto a dock located at North Bay Village. According to NAHAY, Risk will remain in his patrol car during the offload and would give Rivero a warning if he (Risk) heard anything on the radio. NAHAY further stated that Rivero needed to speak with Archie Stott about a location for the offload.

12. On August 20, 1985, at 7:25 p.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from STEPHEN NAHAY. Rivero informed NAHAY that his people were planning to bring 3 loads of 50 kilos into North Bay Village. NAHAY stated that Rivero should not do anything until he (NAHAY) spoke with Archie Stott. NAHAY told Rivero to speak with Risk about the mechanics of the delivery. NAHAY then told Rivero about an old friend of his named Andy Mazzeralla (phonetic). According to NAHAY, Mazzeralla (ph) was a lieutenant in the North Bay Village Police Department who had been busted for a narcotics offense and not prosecuted, but dismissed from the police department. NAHAY stated that Mazzeralla could help him (NAHAY) and Rivero with the offloading into North Bay Village.

13. On August 21, 1985, at 10:14 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to (305) 758-9691, and spoke with Gene Perry. WAXY stated that the

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guy from Houston (Gino, the undercover FBI agent acting as a consultant on the Photon amusement project) meeting with him for lunch at the Top Draw. 1/ WAXY asked Gene to get the brochures on the four locations by noon. Gene responded that he would call him back.

14. On August 21, 1985, at 10:34 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863

1/ On August 21, 1985, at approximately 1:00 p.m., KEVIN GORDON ("WAXY") and Johnny Rivero met with Gino (an FBI undercover agent) at the Top Draw Club. Gino has been represented by Rivero to be a consultant for a group of investors interested in developing the Photon amusement center in South Florida. During the meeting, Gino asked WAXY, "if there is a problem with zoning in the area that we like, what do we do?" WAXY responded, "that's what I'm here for . . . If we run into a problem with zoning and what have you, if I have to talk to certain individuals and what have you, and he gives me a figure or I quote him one on what's available, how long will it take to get a package together?" Gino responded, "you mean money?" WAXY then stated, "Yeah. How will this be paid?" Gino responded, "Everything cash." WAXY added, "No checks involved." Later on in the conversation Gino told WAXY that he (Gino) was interested in the Hialeah area. WAXY then stated, "Martinez (Raul Martinez, Mayor of Hialeah) is a strong mayor." Gino responded, "what's he like." WAXY responded, "Martinez is a close friend of Steve Clark." Gino asked, "Will he (Martinez) be a problem?" WAXY responded, "I don't believe so." Rivero stated, "that's two people you got to take care of." WAXY stated, "No, there's only one guy you've got to take care of, and he splits it up." Gino asked, "What do you think his (Martinez) range is?" WAXY stated, "I can't say off hand - Martinez never prints a menu." Gino added, "but just based on your experience?" WAXY stated, "could go as high as ten grand."

The conversations set forth in paragraphs 13 - 16 may constitute evidence of Hobbs Acts Extortion, 18 U.S.C. § 1951, in connection with obtaining zoning changes. The United States will continue to monitor these and similar communications to determine if GORDON, and other individuals as yet unknown, are committing this offense and to determine the extent of the criminal activity and the identity of the conspirators.

from Gene Perry. Perry advised WAXY that he had the information and will leave in an envelope at Perry Real Estate.

15. On August 21, 1985, at 10:41 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4864 to (305) 947-0818, and spoke with Johnny Rivero. WAXY asked Rivero if Gino had arrived from Houston. Rivero responded that he had arrived "last night." WAXY and Rivero then agreed to meet at the Top Draw at 12:30 p.m.

16. On August 21, 1985, at 11:50 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Johnny Rivero. (WAXY) and Rivero spoke about BUTCH VANDERWYDE and WAXY agreed that he would call BUTCH. WAXY advised that he had the real estate brochures and would wait to speak with Gino before giving him the brochures.

17. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communications of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

18. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigation have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore, there is a need for the continued interception of wire communications of the named interceptees.

19. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order by this Court.

Respectfully submitted,

STANLEY MARCUS
UNITED STATES ATTORNEY

BY: _____
ROBERTO MARTINEZ
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this 12 day of August, 1985.

_____
UNITED STATES DISTRICT JUDGE

Certified to be a true and ... of the ... Clerk ... Carol Tarello 1-15-89

MPS:zbt
IBMIRD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

SEALING ORDER

It is hereby ordered that the within Second Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 29 day of August, 1985.

UNITED STATES DISTRICT JUDGE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 179

Certified to be a true and
By Carol Tardo
Date 1-19-89

EXHIBIT
179
HOUSE

MPS:zbt
RMWIRE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

SECOND PROGRESS REPORT
August 29, 1985

This report is made pursuant to the Order entered by this Court on August 15, 1985, and covers the period from August 22, 1985 up to and including August 28, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), CORNELIUS J. VANDENWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN MARAY, and others yet unknown.

2. The interceptions authorized pursuant to the July 15, 1985 Order began on July 15, 1985 at 1:00 p.m. and were terminated on August 14, 1985, at 10:30 a.m.

3. On August 15, 1985, at 11:00 a.m. the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the continued interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J.

VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, and the interception of wire communications of PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown.

4. The interceptions of wire communications on all telephone facilities authorized pursuant to the Court's Order of August 15, 1985, began on August 15, 1985, at 11:15 a.m.

5. I have reviewed the interceptions made pursuant to the Court's Order of August 15, 1985, with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which have been intercepted during the period from August 22, 1985, up to and including August 28, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

6. During the period beginning August 22, 1985, up to and including August 28, 1985, there were the following number of interceptions and minimizations:

	Total Number of Telephone Conversations Intercepted	Total Number of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. TROMBOLONE, Jr.)	70	63

(305) 653-0724 (Residence of KEVIN GORDON)	62	61
(305) 861-4863 (main #)	261	255
861-4864 (sub. #)	134	121
861-4865 (sub. #)	142	133
861-4866 (sub. #) (City of Surfside City Hall)	46	43
(305) 947-0818 (Residence of JOHNNY RIVERO)	71	56

SUMMARY OF PERTINENT ACTIVITY

7. On August 22, 1985, at 12:32 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from STEPHEN NAHAY. NAHAY told Rivero that he was calling from New York. NAHAY stated that the arrangements with the "boy scouts" had been made and that he would be down next week. NAHAY advised Rivero that no one knows about their "fishing trip." NAHAY then stated that he would call back at noon from a "good phone."

8. On August 22, 1985, at 9:51 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from KEVIN GORDON ("WAXY"). WAXY stated that he missed BUTCH "this morning" and would try to bring him to the luncheon meeting. WAXY and Rivero then agreed to meet at the Marina at 12:30 p.m. for lunch. 1/

1/ On August 22, 1985, Johnny Rivero had a meeting with KEVIN "WAXY" GORDON at the Miami Outboard Club, Miami, Florida, at (Footnote Continued)

9. On August 22, 1985, at 11:33 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from STEPHEN NAHAY. NAHAY informed Rivero about using police officers for protection in bringing cocaine into North Bay Village. NAHAY suggested charging $60,000 for bringing in 50 kilos.

10. On August 26, 1985, at 10:39 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from KEVIN GORDON ("WAXY"). WAXY advised Rivero that "the guy" is back in

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(Footnote Continued)
approximately 12:40 p.m. Also present at this meeting were Peter Ferguson, Steve Clark, Steve Martin, and others. The following is a summary of the conversations which took place between Johnny Rivero and the above mentioned individuals:

Rivero arrived at the Miami Outboard Club Lounge at approximately 12:45 p.m. KEVIN "WAXY" GORDON, Steve Martin, Pete Ferguson and others unknown to Rivero were in the lounge. GORDON introduced Steve Martin to Rivero. General conversation of a non-pertinent nature was carried on in the lounge. A few minutes later, an individual came into the lounge and greeted what appeared to be everyone in the lounge . He then went over to GORDON, shook hands with him and hugged him. This individual sat down next to GORDON, at which time GORDON introduced him to Rivero saying, "this is Steve Clark, the mayor." Clark then made general conversation with Rivero, Ferguson, Martin and GORDON. Clark made general statements to the effect that he had known GORDON for a long time, and recalled some old times with GORDON.

Approximately an hour later, GORDON and Clark started playing bumper pool. Clark subsequently suggested that Rivero and Ferguson play a game against him and GORDON. All four played pool for approximately one hour and again engaged in general conversation.

After the game of pool, Rivero, Ferguson, GORDON and Clark went back to the bar area. Rivero then went to the restroom, and upon his return, Rivero sat down next to GORDON. GORDON leaned over to Rivero and said "Steve is going to take care of this Hialeah thing for us, since that's where Gino wants to be." Then Clark said, "If you have any problems with that thing in Hialeah get in touch with me." GORDON asked "what was the guy's name again?" Clark answered, "Silvio Cardoso. If you have any problems with him, get back in touch with me." Clark added that Cardoso was his contact in Hialeah.

Shortly thereafter, Rivero and GORDON left the lounge and agreed to meet on the following day.

town and agreed to meet at the Gold Dust at 1:00 p.m. 2/ Rivero asked WAXY to speak with BUTCH VANDERWYDE about setting up a steamship company. WAXY also advised Rivero that he was busy in Hialeah looking for property.

11. On August 26, 1985, at 11:04 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from STEPHEN NAHAY. NAHAY stated that he was in New York and that he was travelling to Miami on Thursday. NAHAY stated that his end was taken care of and that he would use the guy he mentioned.

12. On August 26, 1985, at 5:47 p.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 653-0724 from Johnny Rivero. WAXY asked Rivero if the name O'Connell or McDonald meant anything to Rivero. Rivero replied that it didn't. WAXY then stated that the thing with BUTCH didn't go down because of that name. 3/ WAXY told Rivero that he would talk about it further on the following day at the Tin Lizzie Restaurant. WAXY also asked Rivero when Gino was coming back to Miami.

2/ On August 26, 1985, at 12:15 p.m., Rivero met with WAXY and an individual named Danny (LNU) at the Gold Dust. WAXY told Rivero that Danny (LNU) was a licensed boat captain. Danny (LNU) and WAXY then discussed with Rivero about bringing cocaine into the area. Danny (LNU) stated that he had 5 to 6 lbs of cocaine for sale "right now." This conversation was recorded by Rivero.

3/ On August 27, 1985, Rivero met with KEVIN GORDON ("WAXY") at the Tin Lizzie. During this meeting Rivero learned from WAXY that BUTCH VANDERWYDE had asked a man named Jimmy McCleland, an International Vice - President of the ILA and the President to ILA Local 1497 (clerks and checkers) in New Orleans if he knew Johnny Rivero. McCleland stated that he did not, and this had apparently made ILA Local 1922 very suspicious of Rivero.

13. On August 27, 1985, at 8:45 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4866 to (305) 458-7006, and spoke with RICHARD WILLIAM BRAHAM. WAXY told BRAHAM that he didn't have the "scratch" yet. BRAHAM and WAXY agreed to meet "tomorrow."

14. On August 27, 1985, at 11:24 p.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from STEPHEN NAHAY. NAHAY stated that he was with his people and everything was alright. NAHAY added that "we got both of them" (referring to two police officers). NAHAY and Rivero then agreed to meet Thursday at Happy's Bar.

15. On August 28, 1985, at 9:54 a.m., Johnny Rivero placed an outgoing telephone call from (305) 847-0818 to (718) 366-8557, and spoke with STEPHEN NAHAY. NAHAY advised Rivero that he had spoken with his friend (believed to be Andy Mazarella (phonetic)) and that his friend only trusted two guys there (two North Bay Village police officers). NAHAY added that the two guys are hungry. NAHAY further added that the girl at the desk (police desk) was a good friend of his (Mazarella's (ph)).

16. On August 28, 1985, at 4:17 p.m., Johnny Rivero placed an outgoing telephone call from (305) 847-0818 to (718) 366-8557, and spoke with STEPHEN NAHAY. NAHAY stated that he would arrive in Miami at 11:53 a.m. on August 29, 1985 (NAHAY will be staying at Rivero's apartment during his stay in Miami). Rivero asked NAHAY whether "they" were being set up. NAHAY responded "not to worry." NAHAY stated that "they" had done it before. Rivero and NAHAY then spoke about meeting with the cops "tomorrow" night.

17. On August 27, 1985, at 10:30 a.m., the intercept telephone line for (305) 653-0724 malfunctioned due to a power problem caused by an electrical storm. The line has not been repaired as of the filing of this progress report.

18. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communications of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

19. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigation have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore, there is a need for the continued interception of wire communications of the named interceptees.

20. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order by this Court.

Respectfully submitted,

LEON B. KELLNER
UNITED STATES ATTORNEY

BY: Roberto Martinez
ROBERTO MARTINEZ
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this 29 day of August, 1985.

Marcia L. Hazelton
UNITED STATES DISTRICT JUDGE

...and
...ne
...Clerk
...Florida
Carol Tardio
...y Clerk
D... 8-19-89

MPS:zbt
IBMIRD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

SEALING ORDER

It is hereby ordered that the within Third Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 5 day of September, 1985.

UNITED STATES DISTRICT JUDGE

United States Senate
IRAN-CONTRA HEARINGS
HOUSE MANAGERS' EXHIBIT 180

Certified to be a true and
correct copy of the
document on file.
Clerk
Court
Southern District of Florida
By: Carol Tarallo
Deputy Clerk
Date 1-19-89

EXHIBIT
180
HOUSE

MPS:zbt
RMWIRE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

THIRD PROGRESS REPORT
September 5, 1985

This report is made pursuant to the Order entered by this Court on August 15, 1985, and covers the period from August 29, 1985 up to and including September 4, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others yet unknown.

2. The interceptions authorized pursuant to the July 15, 1985 Order began on July 15, 1985 at 1:00 p.m. and were terminated on August 14, 1985, at 10:30 a.m.

3. On August 15, 1985, at 11:00 a.m. the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the continued interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J.

VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, and the interception of wire communications of PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown.

4. The interceptions of wire communications on all telephone facilities authorized pursuant to the Court's Order of August 15, 1985, began on August 15, 1985, at 11:15 a.m.

5. I have reviewed the interceptions made pursuant to the Court's Order of August 15, 1985, with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which have been intercepted during the period from August 29, 1985, up to and including September 4, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

6. During the period beginning August 29, 1985, up to and including September 4, 1985, there were the following number of interceptions and minimizations:

	Total Number of Telephone Conversations Intercepted	Total Number of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. TROMOLONE, Jr.)	46	44

(305) 653-0724 (Residence of KEVIN GORDON)	68	63
(305) 861-4863 (main #)	190	182
861-4864 (sub. #)	102	98
861-4865 (sub. #)	120	117
861-4866 (sub. #) (City of Surfside City Hall)	23	21
(305) 947-0818 (Residence of JOHNNY RIVERO)	96	65

SUMMARY OF PERTINENT ACTIVITY

7. On August 29, 1985, at 10:35 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone from (305) 861-4863 to (305) 947-0818, and spoke with Johnny Rivero. WAXY stated that he was tied up with a guy in Hialeah. WAXY asked if he (Rivero) had any news for Danny. Rivero stated that it's ready. Rivero and WAXY then agreed to meet at the "Dust" at 1:00 p.m.

8. On August 29, 1985, at 12:03 p.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Gino. WAXY stated that he had looked at several areas in Hialeah. WAXY further stated that he had made a connection with the Hialeah zoning commission through Mayor Clark, and that if they had any zoning problems "they'll be handled." WAXY and Gino agreed to meet on Tuesday morning to look at properties.

9. On August 29, 1985, at 2:51 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 758-2626 (this telephone number is subscribed to the North Bay Village

Police Department). NAHAY spoke with an unknown female (UF) and asked for George Steffaris (phonetic). The UF informed NAHAY that Steffaris (phonetic) was not in. NAHAY then asked to speak with Billy Risk. The UF also stated that Risk wasn't in. NAHAY then left a message that he would be at Happy's Bar at 6:00 p.m.

10. On August 29, 1985, at 2:58 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 651-6096, and spoke with Lou Barone. NAHAY and Barone spoke about the fact that Jack (believed to be JACK LOUIS DOOLEY) had been shot on the beach "the other night". NAHAY stated that he would be in Miami until Sunday morning. NAHAY then stated that he had an appointment at 6:00 p.m. and that he would be finished with "business" by "tomorrow or Saturday."

11. On August 29, 1985, at 3:10 p.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818 from KEVIN GORDON ("WAXY"). WAXY asked NAHAY whether he (NAHAY) had seen Johnny (Rivero). WAXY left a message with NAHAY that he had to talk to Johnny.

12. On August 29, 1985, at 3:15 p.m., STEPHEN NAHAY received an incoming telephone call at (305) 947-0818 from Lou Barone. Barone stated that he could have had the custom made shirts for $30 - $32. NAHAY then stated that he lost "10 Grand" on the shirt deal. (It is believed that shirts is a code name for kilos of cocaine).

13. On August 29, 1985, at 5:02 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (718) 729-4862, and spoke with Butch (LNU). Butch stated that NAHAY should call

"Barbara" at the police department, and ask for "George" to get a hold of Billy Risk. (It is believed that "Butch" is Andy Mazarella (phonetic)).

14. On August 29, 1985, at 5:04 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 758-2626 (telephone number subscribed to by the North Bay Village Police Department) and spoke with the operator at the police department. NAHAY asked for Jim Mulvrick (phonetic) and was informed by the operator that Mulvrick (phonetic) was not on duty. NAHAY then left his telephone number and a message that he (NAHAY) was Andy's friend. NAHAY also left a message for George Steffaris or Billy Risk that he would be at Happy's Bar at 6:00 p.m.

15. On August 29, 1985, at 5:16 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (305) 754-1381, and spoke with KEVIN GORDON ("WAXY"). WAXY stated that he gave Gino the whole story about the Mayor and Hialeah. WAXY then added that "maybe we can drive him through Hialeah."

16. On August 29, 1985, at 5:34 p.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from "Don" ("Don" is the identity of an FBI agent, acting in an undercover capacity as a cocaine smuggler interested in obtaining police protection from the North Bay Village Police Department). Don then spoke with STEPHEN NAHAY. NAHAY stated that they would meet tomorrow. NAHAY advised Don that he has another cop who has done 10 or 11 jobs before and that he is also dealing with a "fired" cop in New York (Andy Mazarella). Don stated that he wanted to do other deals and that he was worried because he had lost some "stuff". NAHAY stated that he would be in good hands.

17. On August 29, 1985, at 5:47 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (718) 729-4862. NAHAY then gave the telephone to Johnny Rivero, and Rivero spoke with Andy. Andy stated that when he worked there (the North Bay Village Police Department) "they" used to do it all the time. Andy then stated, "I know P.D. mentality." NAHAY then got back on the line and Andy stated that Jimmy would be at Happy's Bar to meet with him (NAHAY) and Rivero.

18. On August 30, 1985, at 12:38 p.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from KEVIN GORDON ("WAXY"). WAXY stated that he went to Hialeah's building department to set things up, and that he was setting aside all day Tuesday for a meeting with Gino. WAXY asked about the "guy on the dock", and Rivero responded that the guy was going to talk to BUTCH VANDERWYDE "face to face."

19. On August 31, 1985, at 1:42 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0181 to (718) 729-4862, and spoke with "Butch" (believed to be Andy Mazarella (phonetic)). NAHAY told "Butch" that everything was allright and that they will get "three a piece" 1/

1/ On August 30, 1985, and August 31, 1985, Don met with Johnny Rivero and STEPHEN NAHAY, and discussed the payments to the North Bay Village police officers for protection in smuggling cocaine into North Bay Village. The final agreement was that $3,000 would be paid to police officers George Steffaris (ph) and Billy Risk and to ex police officer Andy Mazarella (phonetic) and $3,000 would also be paid to STEPHEN NAHAY and Johnny Rivero.

On August 31, 1985, in the evening, STEPHEN NAHAY introduced Rivero to George Steffaris, who was in a police uniform with the

(Footnote Continued)

20. On September 2, 1985, at 12:47 p.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from KEVIN GORDON ("WAXY"). WAXY asked Rivero if Gino had arrived. Rivero stated that Gino would be arriving in the afternoon. WAXY and Rivero agreed to meet with Gino on September 3, 1985. 2/

21. On September 4, 1985, at 9:10 a.m., Johnny Rivero received an incoming telephone call at (305) 947-0818 from STEPHEN NAHAY. NAHAY wanted to know how the deal was going, and if he (Rivero) had spoken to Don. Rivero stated that the deal would probably "go down" next Tuesday.

22. On September 4, 1985, at 9:34 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to (305) 947-0818, and spoke with Johnny Rivero. WAXY told Rivero that Cardoso won't be in until next Wednesday and that Gino should go back to Houston. WAXY further stated that he doesn't know how Cardoso will feel about giving someone he doesn't know "guarantees about zoning matters, it usually isn't done that way...It's an illegal act you known."

(Footnote Continued)
word "SWAT" on his shirt. NAHAY told Steffaris that the deal was set for $3,000 for "what you do". Steffaris stated that he hoped there would be more runs, and that he would be present when the 20 kilos came in.

2/ On September 3, 1985, at approximately noon, Gino and Johnny Rivero met with KEVIN GORDON ("WAXY"). WAXY drove Gino and Rivero through Hialeah and indicated several properties suitable for the amusement project. WAXY further told Gino that Steve Clark's man in Hialeah was Silvio Cardoso, a councilman in Hialeah.

23. On September 4, 1985, at 9:38 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 961-4863 to (305) 883-5805, and spoke with an unidentified female (UF). WAXY asked for Cardoso's address and the correct spelling of his name. WAXY stated that he wanted to send Cardoso a card to invite him to a function.

24. On September 4, 1985, at 10:24 a.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (305) 861-4863 and spoke with KEVIN GORDON ("WAXY"). Rivero told WAXY that "our friend" (Gino) wanted to see WAXY to take care of the problem. WAXY agreed to meet with Gino and Rivero at Sunday's Restaurant at 1:00 p.m. 3/

25. On September 4, 1985, at 10:28 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4866 to (305) 458-7006, and spoke with Rick (RICHARD WILLIAM BRAHAM, the shylock). WAXY told BRAHAM that he was busy today. BRAHAM suggested meeting next week. WAXY stated that "it is two and one-half now and Tuesday it would be 3." BRAHAM responded, "Yeah."

27. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communications of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

3/ On September 4, 1985, at approximately 1:00 p.m., Johnny (Footnote Continued)

28. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigation have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore, there is a need for the continued interception of wire communications of the named interceptees.

29. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order by this Court.

Respectfully submitted,

LEON B. KELLNER
UNITED STATES ATTORNEY

BY: Roberto Martinez
ROBERTO MARTINEZ
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this 5 day of September, 1985.

Certified to be a true and correct copy of the document on file.
[illegible] March, Clerk
United States District Court
Southern District of Florida
Carol Tardo
Deputy Clerk
Date 1-19-87

Clarence L. Hastings
UNITED STATES DISTRICT JUDGE

(Footnote Continued)
Rivero and Gino met with KEVIN GORDON ("WAXY") at Sunday's Restaurant. At that meeting Gino paid WAXY $500 for the work he had done.

RM:sg

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

SEALING ORDER

It is hereby ordered that the within Fourth Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 12 day of September, 1985.

Alcee L. Hastings
UNITED STATES DISTRICT JUDGE

United States Senate
IMPEACHMENT HEARINGS
HOUSE MANAGERS' EXHIBIT 181

Certified to be a true and
correct copy of the
document on file.
[illegible], Clerk
[illegible]
Carol Jarvis
Deputy Clerk
Date 1-19-89

EXHIBIT
181
HOUSE

BM:sg
IBMIBD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

FOURTH PROGRESS REPORT
September 12, 1985

This report is made pursuant to the Order entered by the United States District Court on August 15, 1985, and covers the period from September 5, 1985 up to and including September 10, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others yet unknown.

2. The interceptions authorized pursuant to the July 15, 1985 Order began on July 15, 1985 at 1:00 p.m. and were terminated on August 14, 1985, at 10:30 a.m.

3. On August 15, 1985, at 11:00 a.m. the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the continued interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J.

VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, and the interception of wire communications of PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONZ, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown.

4. The interceptions of wire communications on all telephone facilities authorized pursuant to the Court's Order of August 15, 1985, began on August 15, 1985, at 11:15 a.m.

5. I have reviewed the interceptions made pursuant to the Court's Order of August 15, 1985, with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which have been intercepted during the period from September 5, 1985, up to and including September 10, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

6. During the period beginning September 5, 1985, up to and including September 10, 1985, there were the following number of interceptions and minimizations:

	Total Number of Telephone Conversations Intercepted	Total Number of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. TRONOLONE, Jr.)	43	33

(305) 653-0724 (Residence of KEVIN GORDON)	68	64
(305) 861-4863 (main #)	204	191
861-4864 (sub. #)	143	137
861-4865 (sub. #)	142	132
861-4866 (sub. #) (City of Surfside City Hall)	31	30
(305) 947-0818 (Residence of JOHNNY RIVERO)	77	43

SUMMARY OF PERTINENT ACTIVITY

1. On September 6, 1985, at 10:26 a.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557, and spoke with STEPHEN NAHAY. NAHAY and Rivero spoke about the "deal" set for Tuesday (September 10, 1985). Rivero also asked NAHAY if he could provide him with "ludes", and NAHAY responded that he could at $1.00 each.

2. On September 9, 1985, at 11:53 a.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557, and spoke with STEPHEN NAHAY. Rivero told NAHAY that his (NAHAY's) flight to Miami was Eastern 817 from LaGuardia, arriving at 2:49 p.m. on Tuesday (September 10, 1985). NAHAY stated that he would call the cops and that everything would be ok. NAHAY then advised Rivero as to the specifics of the police protection on the dope deal at North Bay Village.

3. On September 10, 1985, at 7:05 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305)

864-4101, and spoke with Billy Risk (a North Bay Village (NBV) police officer). Arrangements were made for the drug deal on Thursday. NAHAY and Risk mentioned that they would receive $3,000 each.

4. On September 10, 1985, at 7:09 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 856-2620, and spoke with George Staphylaris (a NBV policer officer). NAHAY and Staphylaris discussed the details of the drug deal to take place at the Runaway Bay Club on Thursday.

5. On September 10, 1985, at 7:27 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 864-4101, and spoke with Billy Risk. NAHAY told Risk that he had just spoken with George and that everything was ready to go. Risk stated that he would protect him, and asked when he would be paid. NAHAY told Risk that he would be paid "right then."

6. On September 10, 1985, at 8:33 p.m., STEPHEN NAHAY received an incoming telephone call on (305) 947-0818 from Dan (FBI Special Agent acting in an undercover capacity as a drug dealer). NAHAY assured Dan that the deal would go down and not to "worry." During the conversation NAHAY and Dan also discussed the sale of "ludes" to Dan.

7. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communications of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

8. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigation have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore, there is a need for the continued interception of wire communications of the named interceptees.

9. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order by this Court.

Respectfully submitted,

LEON B. KELLNER
UNITED STATES ATTORNEY

BY: Roberto Martinez
ROBERTO MARTINEZ
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this 12 day of September, 1985.

Edward B. Marcus
UNITED STATES DISTRICT JUDGE

Certified to be a true and correct copy of the original file.
..., Clerk
...Court
...District of Florida
By: Carol Fardello
...Deputy Clerk
Date: 1-19-89

RM:sg

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

SEALING ORDER

It is hereby ordered that the within Fourth Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 12 day of September, 1985.

JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 182

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By _____ Deputy Clerk
Date 1/23/89

Certified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By Vicki Kramerman
Date 4-12-85

EXHIBIT
182
HOUSE

JHK

RM:sg
IBMIRD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

FOURTH PROGRESS REPORT
September 12, 1985

This report is made pursuant to the Order entered by the United States District Court on August 15, 1985, and covers the period from September 5, 1985 up to and including September 10, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others yet unknown.

2. The interceptions authorized pursuant to the July 15, 1985 Order began on July 15, 1985 at 1:00 p.m. and were terminated on August 14, 1985, at 10:30 a.m.

3. On August 15, 1985, at 11:00 a.m. the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the continued interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J.

9-12-85
12:00 noon
EXHIBIT No 1 TO
Progress Report Signed by JHK

VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, and the interception of wire communications of PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown.

4. The interceptions of wire communications on all telephone facilities authorized pursuant to the Court's Order of August 15, 1985, began on August 15, 1985, at 11:15 a.m.

5. I have reviewed the interceptions made pursuant to the Court's Order of August 15, 1985, with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which have been intercepted during the period from September 5, 1985, up to and including September 10, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

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JL

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861-4865 (sub. #)	142	132
861-4866 (sub. #) (City of Surfside City Hall)	31	30
(305) 947-0818 (Residence of JOHNNY RIVERO)	77	43

SUMMARY OF PERTINENT ACTIVITY

1. On September 6, 1985, at 10:26 a.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557, and spoke with STEPHEN NAHAY. NAHAY and Rivero spoke about the "deal" set for Tuesday (September 10, 1985). Rivero also asked NAHAY if he could provide him with "ludes", and NAHAY responded that he could at $1.00 each.

2. On September 9, 1985, at 11:53 a.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557, and spoke with STEPHEN NAHAY. Rivero told NAHAY that his (NAHAY's) flight to Miami was Eastern #17 from LaGuardia, arriving at 2:49 p.m. on Tuesday (September 10, 1985). NAHAY stated that he would call the cops and that everything would be ok. NAHAY then advised Rivero as to the specifics of the police protection on the dope deal at North Bay Village.

3. On September 10, 1985, at 7:05 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305)

JhK

864-4101, and spoke with Billy Risk (a North Bay Village (NBV) police officer). Arrangements were made for the drug deal on Thursday. NAHAY and Risk mentioned that they would receive $3,000 each.

4. On September 10, 1985, at 7:09 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 856-2620, and spoke with George Staphylaris (a NBV policer officer). NAHAY and Staphylaris discussed the details of the drug deal to take place at the Runaway Bay Club on Thursday.

5. On September 10, 1985, at 7:27 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 864-4101, and spoke with Billy Risk. NAHAY told Risk that he had just spoken with George and that everything was ready to go. Risk stated that he would protect him, and asked when he would be paid. NAHAY told Risk that he would be paid "right then."

6. On September 10, 1985, at 8:33 p.m., STEPHEN NAHAY received an incoming telephone call on (305) 947-0818 from Dan (FBI Special Agent acting in an undercover capacity as a drug dealer). NAHAY assured Dan that the deal would go down and not to "worry." During the conversation NAHAY and Dan also discussed the sale of "ludes" to Dan.

7. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communications of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

JLK

8. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigation have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore, there is a need for the continued interception of wire communications of the named interceptees.

9. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order by this Court.

Respectfully submitted,

LEON B. KELLNER
UNITED STATES ATTORNEY

BY: _____
ROBERTO MARTINEZ
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this ____ day of September, 1985.

_____
UNITED STATES DISTRICT JUDGE

JLK

RM:sg

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

SEALING ORDER

It is hereby ordered that the within Fourth Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 12 day of September, 1985.

[redacted]
UNITED STATES DISTRICT JUDGE

11:56 a.m.

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By _____ Deputy Clerk
Date 1/23/09

Certified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By _____
Date 9-12-85

RM:sg
IBMIRD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

FOURTH PROGRESS REPORT
September 12, 1985

This report is made pursuant to the Order entered by the United States District Court on August 15, 1985, and covers the period from September 5, 1985 up to and including September 10, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications, and the need for continued interception.

1. On July 15, 1985, the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, Jr. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others yet unknown.

2. The interceptions authorized pursuant to the July 15, 1985 Order began on July 15, 1985 at 1:00 p.m. and were terminated on August 14, 1985, at 10:30 a.m.

3. On August 15, 1985, at 11:00 a.m. the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the continued interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J.

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VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others as yet unknown, and the interception of wire communications of PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown.

4. The interceptions of wire communications on all telephone facilities authorized pursuant to the Court's Order of August 15, 1985, began on August 15, 1985, at 11:15 a.m.

5. I have reviewed the interceptions made pursuant to the Court's Order of August 15, 1985, with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which have been intercepted during the period from September 5, 1985, up to and including September 10, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

6. During the period beginning September 5, 1985, up to and including September 10, 1985, there were the following number of interceptions and minimizations:

	Total Number of Telephone Conversations Intercepted	Total Number of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. TRONOLONE, Jr.)	43	33

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(305) 653-0724 (Residence of KEVIN GORDON)	68	64
(305) 861-4863 (main #)	204	191
861-4864 (sub. #)	143	137
861-4865 (sub. #)	142	132
861-4866 (sub. #) (City of Surfside City Hall)	31	30
(305) 947-0818 (Residence of JOHNNY RIVERO)	77	43

SUMMARY OF PERTINENT ACTIVITY

1. On September 6, 1985, at 8:58 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Pete Ferguson. Ferguson told WAXY that Mayor Clark wanted to meet him ("WAXY") at "11:30 a.m. today at the Miami Outboard."

2. On September 6, 1985, at 9:31 a.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (305) 861-4863 and spoke with KEVIN GORDON ("WAXY"). WAXY informed Rivero that he was called by Pete Ferguson who told WAXY that Mayor Steve Clark wanted to meet him at the Outboard Club at 11:30 a.m. WAXY stated that he "reached out" for Cardoso the other day, but that he couldn't talk further on the phone. Rivero and WAXY then agreed to meet at the Outboard Club.

3. On September 6, 1985, at 10:26 a.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (718) 366-8557, and spoke with STEPHEN NAHAY. NAHAY and Rivero spoke about the "deal" set for Tuesday (September 10, 1985). Rivero

JHK

also asked WAHAY if he could provide him with "ludes", and WAHAY responded that he could at $1.00 each.

4. On September 6, 1985, at 10:34 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Dick Bonehill. WAXY told Bonehill that the $3,000 check he received from the man from Houston had bounced. WAXY also advised Bonehill that Mayor Clark's campaign manager (Pete Ferguson) called him during the morning, and wanted WAXY to meet Clark "today". WAXY asked Bonehill, "do you know if anything is wrong?" WAXY stated that he didn't know why Clark wanted to meet him.

5. On September 6, 1985, at 10:42 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from KEVIN GORDON ("WAXY"). Rivero asked WAXY if the mayor was going to talk about "Photon" (the amusement project). WAXY said, "no", and that the meeting would be about something else. WAXY further stated that his ("WAXY's") ex-secretary would be at the meeting. 1/

1/ On September 6, 1985, at 11:45 a.m., Johnny Rivero arrived at the Outboard Club. Upon entering he observed Mayor Steve Clark and KEVIN GORDON ("WAXY") talking and also observed Pete Ferguson at the bar. Rivero joined Ferguson at the bar, and they were subsequently joined by Clark and WAXY. Rivero heard Clark tell WAXY, "I need it done, and we're both going to come out ok. Don't worry about it. It's done." The rest of the conversation concerned non-pertinent matters. Rivero left at 1:45 p.m. and he and WAXY agreed to meet at the Gold Dust Lounge at 3:00 p.m.

At 3:00 p.m. Rivero went to the Gold Dust Lounge. WAXY never showed up. Rivero then left at 4:00 p.m.

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6. On September 9, 1985, at 9:23 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Dick Bonehill. Bonehill asked WAXY about his meeting with Mayor Clark. WAXY stated that he couldn't discuss it on the telephone, but that it was "not bad, but not good either." WAXY then asked Bonehill if he still wanted him (WAXY) to call Gonzalez. Bonehill advised that he did, but to let him (Bonehill) know on another telephone.

7. On September 9, 1985, at 11:04 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Dick Bonehill. The following is a transcription of the pertinent portion of the telephone conversation:

KEVIN GORDON ("WAXY"): W

DICK BONEHILL: B

W: The other thing I want to tell you on this phone. Ah...Steve called me over there to tell me that he had heard from Alcee Hasting...you know a Federal Judge. There's some rumor that I was involved with...ah...Clark, Ferguson and a councilman from Hialeah on some deal...and the only thing that I was doing out in Hialeah was for this guy..you know, out of Houston...on a new...ah...on a new item.

And I says, you know, he wanted certain things done in a manner...ah...normal...influence and what have you. And whatever...But I can't see him being that and then giving me a bad check. You know what I'm saying. It doesn't...ah...you know if they're setting me up they're

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gonna make sure the funds are good. You know what I'm saying?

B: (unintel) to bring cash (unintel) goods or marked money.

W: What...you mean, me could take the check back to him and then he give me another package, of you know, with cash, man?

B: Um-hum.

W: Well, I still haven't done anything illegal you know. I haven't...

B: He said that Clark was involved too?

W: Yeah. He's not.

B: ...(unintel.) Alcee (unintel.)...

W: Huh?

B: I have big ears....

W: No. He's not involved you know. He...ah...he knows me and he was good enough for him to get it. But I mean for a Federal Judge to get it...its got to be pretty high up in the Justice Department or someplace - right?

B: Yeah. No. They had that investigation going out in Hialeah.

W: I see...

B: About the zoning vote.

W: Oh, yeah. That's what I was involved in.

B: Huh?

W: Thats...a...you know, the...the problem that I had out there was for zoning which I was trying to mitigate.

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B: Well... they had a couple of councilmen and...ah... a couple of real estate people. Ah...remember, there was a big deal in the paper about it six (6) or seven (7) months ago?

W: I thought that pretty much quieted down?

B: Nah.

W: Well - I wonder why they put my name to it! I just ah figured out that...ah...something was wrong here if the checks no good. But I figured with the che...you know, I couldn't understand a check being bad if they were trying to do business, you know...and see how I operated. I didn't even consider the idea... bringing back the check and getting cash. Is that, you know, in your experience...is that a method of operation of them?

B: Mmmm-huh.

W: Ga...oh God. Ok. Ah...as far as...ah... oh. Did you call over there? 2/

8. On September 9, 1985, at 11:16 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4864 from an unidentified female (UF). WAXY advised UF about a bad check he received for doing something in Hialeah. WAXY stated that he was worried that the bad check was a method used by the police to investigate matters. The UF asked WAXY about the

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2/ This conversation may constitute evidence of "Obstruction of Justice", Title 18, United States Code, Sections 1503 and 1512. The United States will continue to monitor these conversations to determine the extent of the criminal activity and the full nature and scope of the involvement of the participants.

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meeting on Friday. WAXY stated, "not good", and added that it was a terrible situtaion, "but worse on Saturday."

9. On September 9, 1985, at 11:47 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4864 from Johnny Rivero. Rivero and WAXY agreed to meet at 12:30 p.m. 3/

10. On September 9, 1985, at 11:53 a.m., Johnny Rivero placed an outgoing telephone call from (305) 847-0818 to (718) 366-8557, and spoke with STEPHEN NAHAY. Rivero told NAHAY that his (NAHAY's) flight to Miami was Eastern #17 from LaGuardia, arriving at 2:49 p.m. on Tuesday (September 10, 1985). NAHAY stated that he would call the cops and that everything would be ok. NAHAY then advised Rivero as to the specifics of the police protection on the dope deal at North Bay Village.

11. On September 10, 1985, at 10:10 a.m., KEVIN GORDON ("WAXY") placed an outgoing telephone call from (305) 861-4865 to (305) 947-0818, and spoke with Johnny Rivero. Rivero asked WAXY if he (WAXY) was "pissed off" at him because of the way WAXY was acting around him (Rivero). WAXY said, "no", and asked Rivero to meet him at the Tin Lizzie bar at 1:00 p.m. 4/

3/ On September 9, 1985, at approximately 1:10 p.m. Johnny Rivero met with KEVIN GORDON ("WAXY") at the Gold Dust Lounge. During the meeting WAXY told Rivero that there was something wrong, but wasn't quite sure what it was. WAXY further stated that they were trying to get back to the guy we got the information from.

4/ On September 10, 1985, at 12:45 p.m., Rivero met with KEVIN GORDON ("WAXY") at the Tin Lizzie Bar. During the meeting WAXY
(Footnote Continued)

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12. On September 10, 1985, at 7:05 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 864-4101, and spoke with Billy Risk (a North Bay Village (NBV) police officer). Arrangements were made for the drug deal on Thursday. NAHAY and Risk mentioned that they would receive $3,000 each.

13. On September 10, 1985, at 7:09 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 856-2620, and spoke with George Staphylaris (a NBV policer officer). NAHAY and Staphylaris discussed the details of the drug deal to take place at the Runaway Bay Club on Thursday.

14. On September 10, 1985, at 7:27 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 864-4101, and spoke with Billy Risk. NAHAY told Risk that he had just spoken with George and that everything was ready to go. Risk stated that he would protect him, and asked when he would be paid. NAHAY told Risk that he would be paid "right then."

15. On September 10, 1985, at 8:33 p.m., STEPHEN NAHAY received an incoming telephone call on (305) 947-0818 from Dan

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(Footnote Continued)
told Rivero that Mayor Steve Clark had told him (WAXY) that he (Clark) had met a federal judge at a MMAP (Metro-Miami Action Plan) meeting, and that the judge asked Clark if he (Clark) knew a "KEVIN GORDON, or a WAXY." According to WAXY, Mayor Clark said "yes." According to WAXY, Clark advised him (WAXY) that the federal judge stated that the Surfside City Hall and WAXY's home telephone are "wired", and that there was an investigation going on in Hialeah, and: "If Kevin is a friend of yours, tell him not to do anything in Hialeah." WAXY then told Rivero, "it's a good thing that we have this connection." WAXY later told Rivero that the judge's name is Alcee Hastings.

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(FBI Special Agent acting in an undercover capacity as a drug dealer). NAHAY assured Dan that the deal would go down and not to "worry." During the conversation NAHAY and Dan also discussed the sale of "ludes" to Dan.

16. Based upon the conversations described above, the United States respectfully submits that there remains probable cause to believe communications of the type described in the United States' application (and in the affidavit of Special Agent Geoffrey Santini attached thereto) will be intercepted.

17. Although pertinent conversations have been intercepted pursuant to the Court's Order, it is clear that the goals of this investigation have not yet been met. Numerous co-conspirators and accomplices have yet to be identified and the full nature and scope of the conspiracy is not yet known. Therefore, there is a need for the continued interception of wire communications of the named interceptees.

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18. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order by this Court.

Respectfully submitted,

LEON B. KELLNER
UNITED STATES ATTORNEY

BY: Roberto Martinez
ROBERTO MARTINEZ
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this 12 day of September, 1985.

UNITED STATES DISTRICT JUDGE
11:55 a.m.

By Deputy Clerk
Date 1/23/89

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United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 183

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
/

FIFTH PROGRESS REPORT
September 16, 1985

This report is made pursuant to the Order entered by this Court on August 15, 1985, and covers the period from September 11, 1985 up to and including September 14, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications.

1. On July 15, 1985, the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others yet unknown.

2. The interceptions authorized pursuant to the July 15, 1985 Order began on July 15, 1985, at 1:00 p.m. and were terminated on August 14, 1985, at 10:30 a.m.

3. On August 15, 1985, at 11:00 a.m. the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the continued interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and

EXHIBIT
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HOUSE

others as yet unknown, and the interception of wire communications of PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), BOBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown.

4. The interceptions of wire communications on all telephone facilities authorized pursuant to the Court's Order of August 15, 1985, began on August 15, 1985, at 11:15 a.m.

5. I have reviewed the interceptions made pursuant to the Court's Order of August 15, 1985, with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which have been intercepted during the period from September 11, 1985, up to and including September 14, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

6. During the period beginning September 11, 1985, up to and including September 14, 1985, there were the following number of interceptions and minimizations:

	Total Number of Telephone Conversations Intercepted	Total Number of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. TRONOLONE, JR.)	13	7
(305) 653-0724 (Residence of KEVIN GORDON)	50	46

(305) 861-4863 (main #)	137	125
861-4864 (sub. #)	89	86
861-4865 (sub. #)	70	69
861-4866 (sub. #)	28	26
(City of Surfside City Hall)		
(305) 947-0818 (Residence of JOHNNY RIVERO)	68	38

SUMMARY OF PERTINENT ACTIVITY

1. On September 11, 1985, at 12:57 p.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from "Dan" ("Dan" is an FBI agent, acting in an undercover capacity as a cocaine smuggler interested in obtaining police protection from the North Bay Village (NBV) Police Department). Dan at first spoke with Rivero, and then spoke with STEPHEN NAHAY. During the conversation, NAHAY confirmed that he was trying to get 1,000 "ludes" to sell to Dan.

2. On September 11, 1985, at 12:59 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 868-9191, and spoke with Archie (believed to be Archie Stott). NAHAY asked Archie: "Can you get me one of them today?" Archie replied: "I'll try" (It is believed that this conversation concerns the sale of quaaludes by Archie to NAHAY.)

3. On September 11, 1985, at 1:03 p.m., Johnny Rivero received on incoming telephone call on (305) 947-0818 from Dan. Dan at first spoke with Rivero, and then spoke with STEPHEN NAHAY. NAHAY confirmed: "one grand for 1000".

4. On September 12, 1985, at 10:46 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from

STEPHEN NAHAY. NAHAY stated that both cops (NBV police officers) would be there and that Rivero could pay them both. NAHAY stated that Billy (Risk) was a sargeant in the NBV police force. NAHAY further stated that Billy would be inside and the other guy (NBV police officer George Stephylaris) would be in the parking lot with his radio. NAHAY further stated that he had spoken with the cops "last night" and that everything was OK. 1/

5. On September 13, 1985, at 9:36 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from STEPHEN NAHAY. NAHAY stated that Billy (Risk) was paid, and that Billy paid the other guy (George Stephylaris). NAHAY stated that he had told Risk that they would be doing business like that all the time. Rivero stated that 100 kilos were coming in. NAHAY advised Rivero to "watch" the telephone.

6. On September 13, 1985, at 9:45 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Johnny Rivero. WAXY told Rivero that he had spoken with DANNY and that although Danny doesn't have it (cocaine) any more, he could get it. WAXY informed Rivero that Danny was ready to go

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1/ On September 12, 1985, in the afternoon, NBV police officers Billy Risk and George Stephylaris provided police protection for the smuggling of cocaine into North Bay Village by undercover FBI agents, Risk and Stephylaris were paid $3,000 each in cash.

on it and told Rivero to call Danny. WAXY stated that he would go "there" (Gold Dust Lounge) later. Rivero stated that a female had the money and was ready to do it.

7. On September 13, 1985, at 12:43 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (305) 754-1381 (subscribed to by the Gold Dust Lounge). Rivero asked for Danny. Danny was not in, but Rivero spoke with WAXY, who stated that he would tell Danny to call Rivero upon his (Danny's) arrival.

8. On September 14, 1985, at 10:45 a.m., the interceptions authorized pursuant to the August 14, 1985 Order were terminated on all telephone facilities.

9. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order of this Court.

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By _____ Deputy Clerk
Date 1/23/89

Respectfully submitted,

LEON B. KELLNER
UNITED STATES ATTORNEY

By: _____
ROBERTO MARTINEZ
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this 16 day of September, 1985.

Certified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By _____ Deputy Clerk
Date 9-17-85

_____
UNITED STATES DISTRICT JUDGE

RM:lr

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
_____/

SEALING ORDER

It is hereby ordered that the within Fifth Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 16th day of September, 1985.

HASTINGS
UNITED STATES DISTRICT JUDGE

REDACTED

BM:lc

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
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September 16, 1985

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others as yet unknown, and the interception of wire communications of PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON PELTAREZ, and others as yet unknown.

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(City of Surfside City Hall)		
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2. On September 11, 1985, at 12:59 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 868-9191, and spoke with Archie (believed to be Archie Stott). NAHAY asked Archie: "Can you get me one of them today?" Archie replied: "I'll try" (It is believed that this conversation concerns the sale of quaaludes by Archie to NAHAY.)

3. On September 11, 1985, at 1:03 p.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from Dan. Dan at first spoke with Rivero, and then spoke with STEPHEN NAHAY. NAHAY confirmed: "one grand for 1000".

4. On September 12, 1985, at 10:46 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from

STEPHEN NAHAY. NAHAY stated that both cops (NBV police officers) would be there and that Rivero could pay them both. NAHAY stated that Billy (Risk) was a sargeant in the NBV police force. NAHAY further stated that Billy would be inside and the other guy (NBV police officer George Stephylaris) would be in the parking lot with his radio. NAHAY further stated that he had spoken with the cops "last night" and that everything was OK. 1/

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on it and told Rivero to call Danny. WAXY stated that he would go "there" (Gold Dust Lounge) later. Rivero stated that a female had the money and was ready to do it.

7. On September 13, 1985, at 12:43 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (305) 754-1381 (subscribed to by the Gold Dust Lounge). Rivero asked for Danny. Danny was not in, but Rivero spoke with WAXY, who stated that he would tell Danny to call Rivero upon his (Danny's) arrival.

8. On September 14, 1985, at 10:45 a.m., the interceptions authorized pursuant to the August 14, 1985 Order were terminated on all telephone facilities.

9. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order of this Court.

Respectfully submitted,

LEON B. KELLNER
UNITED STATES ATTORNEY

By: _____
ROBERTO MARTINEZ
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this _____ day of September, 1985.

_____
UNITED STATES DISTRICT JUDGE

BM:bs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
/

SEALING ORDER

It is hereby ordered that the within Fifth Progress Report be and is hereby sealed and shall remain sealed in the custody of the Clerk of the Court, until further order of this Court.

Done and Ordered this 15 day of September, 1985. 3:33 pm

JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 184

EXHIBIT
184
HOUSE

Clerk
Deputy Clerk
Date 1/23/87

Certified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By Deputy Clerk
Date 9-23-85

BM:bs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
/

FIFTH PROGRESS REPORT
September 16, 1985

This report is made pursuant to the Order entered by this Court on August 15, 1985, and covers the period from September 11, 1985 up to and including September 14, 1985. This report shows what progress has been made toward the achievement of the objectives of the interception of wire communications.

1. On July 15, 1985, the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and others yet unknown.

2. The interceptions authorized pursuant to the July 15, 1985 Order began on July 15, 1985, at 1:00 p.m. and were terminated on August 14, 1985, at 10:30 a.m.

3. On August 15, 1985, at 11:00 a.m. the Honorable Alcee L. Hastings, United States District Judge, signed an order authorizing the continued interception of wire communications of JOHN P. TRONOLONE, JR. ("JOHNNY PEANUTS"), CORNELIUS J. VANDERWYDE ("BUTCH"), KEVIN GORDON ("WAXY"), STEPHEN NAHAY, and

JLK

Exhibit No 1
to Progress Report #5

others as yet unknown, and the interception of wire communications of PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREK, and others as yet unknown.

4. The interceptions of wire communications on all telephone facilities authorized pursuant to the Court's Order of August 15, 1985, began on August 15, 1985, at 11:15 a.m.

5. I have reviewed the interceptions made pursuant to the Court's Order of August 15, 1985, with Special Agents of the Federal Bureau of Investigation (FBI) assigned to this investigation, and provide the following information concerning relevant conversations which have been intercepted during the period from September 11, 1985, up to and including September 14, 1985. There may be, however, conversations not specifically described below whose relevance is not presently apparent, but may become so upon further investigation.

6. During the period beginning September 11, 1985, up to and including September 14, 1985, there were the following number of interceptions and minimizations:

	Total Number of Telephone Conversations Intercepted	Total Number of Telephone Conversations Minimized
(305) 861-1479 (Residence of JOHN P. TRONOLONE, JR.)	13	7
(305) 653-0724 (Residence of KEVIN GORDON)	50	46

JLK

(305) 861-4863 (main #)	137	125
861-4864 (sub. #)	89	86
861-4865 (sub. #)	70	69
861-4866 (sub. #)	28	26
(City of Surfside City Hall)		
(305) 947-0818 (Residence of JOHNNY RIVERO)	68	38

SUMMARY OF PERTINENT ACTIVITY

1. On September 11, 1985, at 12:57 p.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from "Dan" ("Dan" is an FBI agent, acting in an undercover capacity as a cocaine smuggler interested in obtaining police protection from the North Bay Village (NBV) Police Department). Dan at first spoke with Rivero, and then spoke with STEPHEN NAHAY. During the conversation, NAHAY confirmed that he was trying to get 1,000 "ludes" to sell to Dan.

2. On September 11, 1985, at 12:59 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 868-9191, and spoke with Archie (believed to be Archie Stott). NAHAY asked Archie: "Can you get me one of them today?" Archie replied: "I'll try" (It is believed that this conversation concerns the sale of quaaludes by Archie to NAHAY.)

3. On September 11, 1985, at 1:03 p.m., Johnny Rivero received on incoming telephone call on (305) 947-0818 from Dan. Dan at first spoke with Rivero, and then spoke with STEPHEN NAHAY. NAHAY confirmed: "one grand for 1000".

4. On September 12, 1985, at 10:46 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from

JLK

STEPHEN NAHAY. NAHAY stated that both cops (NBV police officers) would be there and that Rivero could pay them both. NAHAY stated that Billy (Risk) was a sargeant in the NBV police force. NAHAY further stated that Billy would be inside and the other guy (NBV police officer George Stephylaris) would be in the parking lot with his radio. NAHAY further stated that he had spoken with the cops "last night" and that everything was OK. 1/

5. On September 13, 1985, at 9:36 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from STEPHEN NAHAY. NAHAY stated that Billy (Risk) was paid, and that Billy paid the other guy (George Stephylaris). NAHAY stated that he had told Risk that they would be doing business like that all the time. Rivero stated that 100 kilos were coming in. NAHAY advised Rivero to "watch" the telephone.

6. On September 13, 1985, at 9:45 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Johnny Rivero. WAXY told Rivero that he had spoken with DANNY and that although Danny doesn't have it (cocaine) any more, he could get it. WAXY informed Rivero that Danny was ready to go

---

1/ On September 12, 1985, in the afternoon, NBV police officers Billy Risk and George Stephylaris provided police protection for the smuggling of cocaine into North Bay Village by undercover FBI agents, Risk and Stephylaris were paid $3,000 each in cash.

JLK

on it and told Rivero to call Danny. WAXY stated that he would go "there" (Gold Dust Lounge) later. Rivero stated that a female had the money and was ready to do it.

7. On September 13, 1985, at 12:43 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (305) 754-1381 (subscribed to by the Gold Dust Lounge). Rivero asked for Danny. Danny was not in, but Rivero spoke with WAXY, who stated that he would tell Danny to call Rivero upon his (Danny's) arrival.

8. On September 14, 1985, at 10:45 a.m., the interceptions authorized pursuant to the August 14, 1985 Order were terminated on all telephone facilities.

9. The United States respectfully requests this progress report be ordered sealed by the Court and kept in the custody of the Clerk of the Court in a safe and secure place until further order of this Court.

Certified to be a true and correct copy of the document on file.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By [signature] Deputy Clerk
Date 1/23/85

Respectfully submitted,

LEON B. KELLNER
UNITED STATES ATTORNEY

By: [signature]
ROBERTO MARTINEZ
ASSISTANT UNITED STATES ATTORNEY

This report was received and read this 15 day of Sept. 1985. 3:34

Certified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By [signature] Deputy Clerk
Date 9-23-85

JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

JLK

BM:bs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS

SEALING ORDER

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JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

Certified to be a true and correct copy of the original.
Robert M. March, Clerk
U.S. District Court
Southern District of Florida
By Vicki Kramerman
Deputy Clerk
Date 9-23-85

Date 1/23/89

BM:bs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MISCELLANEOUS NO. 412 HASTINGS

IN THE MATTER OF THE APPLICATION
OF THE UNITED STATES FOR AN ORDER
AUTHORIZING THE CONTINUED
INTERCEPTION OF WIRE COMMUNICATIONS
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FIFTH PROGRESS REPORT
September 15, 1985

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2. The interceptions authorized pursuant to the July 15, 1985 Order began on July 15, 1985, at 1:00 p.m. and were terminated on August 14, 1985, at 10:30 a.m.

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JLK

others as yet unknown, and the interception of wire communications of PENDLETON SIZEMORE, JACK LOUIS DOOLEY, JOE SIMONE, JULIA NAHAY, WILLIE NAHAY, DARBY (LNU), DOMINICK ROMANO, PENNY (LNU), ROBBIE (LNU), RICHARD WILLIAM BRAHAM, SHARON POLTAREZ, and others as yet unknown.

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JhK

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861-4866 (sub. #)	28	26
(City of Surfside City Hall)		
(305) 947-0818 (Residence of JOHNNY RIVERO)	68	38

SUMMARY OF PERTINENT ACTIVITY

1. On September 11, 1985, at 10:01 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from KEVIN GORDON ("WAXY"). The following is a transcription of the pertinent portion of the telephone conversation:

KEVIN GORDON ("WAXY"): W

Johnny Rivero: R

R: Well you know Kevin its hard for me to believe how in the world would we get this from this source you...that you got it from this connection rather than another way?

W: Well what gets me is the guy-the judge-doesn't know me. He doesn't know me. He only knew Steve (Mayor Steve Clark).

R: And yet he came up with your name?

W: Well, yeah he had my name and asked Steve if he knew me, because...apparently my name has been linked with his, Ferguson's, and all he had was some councilman's in Hialeah.

R: Um-huh.

W: He said if there's something going on tell him to back away-ya know. Well the judge didn't say that. That was more or less what Steve said you know.

R: What Steve told you. Yeah.

W: Yeah...If something is going on, back away, you

JLK

know; and, he said, you know: "forewarned is forearmed".

2. On September 11, 1985, at 12:57 p.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from "Dan" ("Dan" is an FBI agent, acting in an undercover capacity as a cocaine smuggler interested in obtaining police protection from the North Bay Village (NBV) Police Department). Dan at first spoke with Rivero, and then spoke with STEPHEN NAHAY. During the conversation, NAHAY confirmed that he was trying to get 1,000 "ludes" to sell to Dan.

3. On September 11, 1985, at 12:59 p.m., STEPHEN NAHAY placed an outgoing telephone call from (305) 947-0818 to (305) 868-9191, and spoke with Archie (believed to be Archie Stott). NAHAY asked Archie: "Can you get me one of them today?" Archie replied: "I'll try" (It is believed that this conversation concerns the sale of quaaludes by Archie to NAHAY.)

4. On September 11, 1985, at 1:03 p.m., Johnny Rivero received on incoming telephone call on (305) 947-0818 from Dan. Dan at first spoke with Rivero, and then spoke with STEPHEN NAHAY. NAHAY confirmed: "one grand for 1000".

5. On September 12, 1985, at 10:27 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Pete Ferguson. WAXY and Ferguson talked about a retirement party and about an occupational license. The conversation ended with WAXY telling Ferguson: "tell the other fella everything is OK".

6. On September 12, 1985, at 10:46 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from

JhK

STEPHEN NAHAY. NAHAY stated that both cops (NBV police officers) would be there and that Rivero could pay them both. NAHAY stated that Billy (Risk) was a sargeant in the NBV police force. NAHAY further stated that Billy would be inside and the other guy (NBV police officer George Stephylaris) would be in the parking lot with his radio. NAHAY further stated that he had spoken with the cops "last night" and that everything was OK. 1/

7. On September 12, 1985, at 10:56 a.m. Johnny Rivero received an incoming telephone call on (305) 947-0818 from KEVIN GORDON ("WAXY"). Rivero asked WAXY if he could get in touch with Danny to set up a narcotics purchase from him (Danny). WAXY said he would try and would then contact Rivero. Then the following conversation took place:

KEVIN GORDON ("WAXY"): W

Johnny Rivero: R:

W: Any other word?

R: Huh?

W: Any other word?

R: Yeah, that's what I'm working on...something right now. I'm trying to put something together right now. Oh! On that other thing! Not yet. I talked to him this a.m.-OK. (WAXY had asked Rivero to determine whether Gino (an FBI undercover agent) was an undercover law enforcement informant working the Hialeah investigation, which, according to WAXY, Clark had been informed by United States District Judge

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1/ On September 12, 1985, in the afternoon, NBV police officers Billy Risk and George Stephylaris provided police protection for the smuggling of cocaine into North Bay Village by undercover FBI agents, Risk and Stephylaris were paid $3,000 each in cash.

JLK

Alcee Hastings. Rivero had told WAXY that he (Rivero) would check his sources.)

W: Yeah.

R: Ah. What's happening Kevin is they're not going to give me a definite answer till they know for sure. It's got them pretty frickin shocked too...ya know.

W: We could be wrong, ya know. I'm just telling you what the man (unintel).

R: Yeah, well-the thing is they've got some information and Bob (a mutual friend of Gino's and Rivero's) wouldn't give it to me, but Bob said: "Johnny", he said, "There's no way in the world I think you gotta problem with him but I agree with you and Kevin, things don't look right." (laughter)

W: Yeah.

R: You get this kind of thing coming from...if you've got an investigation...you got it coming from another area.

W: Um-huh.

R: You don't have it coming from the source you got. That's crazy.

W: (Unintel.)

R: But ah...this other thing it's clean. We can walk in...(reference to the purchase of cocaine from Danny).

W: Right.

R: ...do our little business and then walk out

W: Oh.

R: ...and I think he said he had about 5 left.

W: I heard something like that.

R: Yeah, oh...so Kevin do that for me and ah it will give us some...ah...

W: Right...

R: Shylock money any way...

JLK

W: (laughter)

R: (laughter)

8. On September 13, 1985, at 9:36 a.m., Johnny Rivero received an incoming telephone call on (305) 947-0818 from STEPHEN NAHAY. NAHAY stated that Billy (Risk) was paid, and that Billy paid the other guy (George Stephylaris). NAHAY stated that he had told Risk that they would be doing business like that all the time. Rivero stated that 100 kilos were coming in. NAHAY advised Rivero to "watch" the telephone.

9. On September 13, 1985, at 9:45 a.m., KEVIN GORDON ("WAXY") received an incoming telephone call on (305) 861-4863 from Johnny Rivero. WAXY told Rivero that he had spoken with DANNY and that although Danny doesn't have it (cocaine) any more, he could get it. WAXY informed Rivero that Danny was ready to go on it and told Rivero to call Danny. WAXY stated that he would o "there" (Gold Dust Lounge) later. Rivero stated that a female had the money and was ready to do it.

10. On September 13, 1985, at 12:43 p.m., Johnny Rivero placed an outgoing telephone call from (305) 947-0818 to (305) 754-1381 (subscribed to by the Gold Dust Lounge). Rivero asked for Danny. Danny was not in, but Rivero spoke with WAXY, who stated that he would tell Danny to call Rivero upon his (Danny's) arrival.

11. On September 14, 1985, at 10:45 a.m., the interceptions authorized pursuant to the August 14, 1985 Order were terminated on all telephone facilities.

JLK

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fully requests this progress t and kept in the custody of secure place until further

tfully submitted,

. KELLNER
STATES ATTORNEY

MARTINEZ
NT UNITED STATES ATTORNEY

read this 15 day of

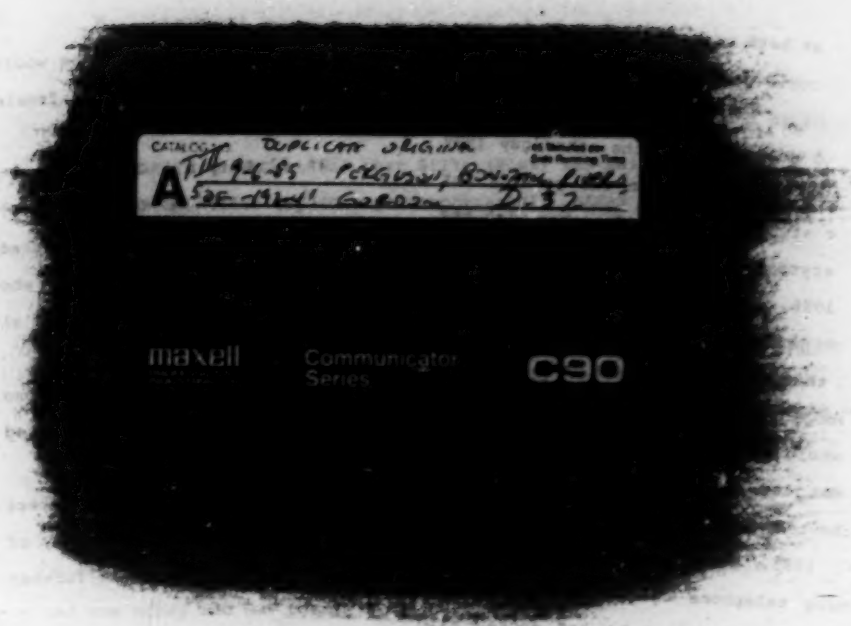
LAWRENCE KING
TATES DISTRICT JUDGE

12, 1985, in the afternoon, NBV police and George Stephylaris provided police gling of cocaine into North Bay Village by Risk and Stephylaris were paid $3,000

Southern District of Florida
By Deputy Clerk
Date 1/23/87

JLK

JLK



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 185A

September 6, 1985, 8:58 a.m. conversation between Waxy Gordon and Peter Ferguson.

F - Peter Ferguson
U - Unintelligible
W - "Waxy" Gordon

F: Hello.

U: _____

F: Good morning. May I speak to Kevin Gordon please?

U: Yes, hold on. Kevin . . .

(put on hold).

W: Gordon speaking.

F: Waxy.

W: Yeah.

F: Mayor Clark would like to see you at the NOC at 11:30.

W: The where?

F: Ah . . . Miami Outboard.

W: 11:30?

F: Yeah.

W: I'll be there.

F: Can you make it?

W: Yeah.

F: Good. Cause the Mayor wants to see you about something. He wants to ask you how to, how to mail a cult some gang mails. Bring a, bring a half a pound of cluts will you?

W: (laughs) Okay. 11:30.

F: Thank you.

W: Right-o. Bye.

United States Senate
IMPEACHMENT HEARINGS
HOUSE MANAGERS' EXHIBIT 185B

EXHIBIT 185b HOUSE

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 186A

September 9, 1985 - 9:23 a.m. conversation between Gordon and Bonehill.

W - "Waxy" Gordon
U - Unintelligible
B - Bonehill

U: I was disconnected. I was waiting to speak to _____.

U: Okay.

W: Gordon speaking.

B: How you doing Kevy?

W: Hey Dick. how you doing? I don't, ah, know about the bank yet. I won't be able to call bookkeeping until 10 o'clock.

B: Uh huh.

W: Okay? I'll give a . . .

B: What happened Friday?

W: Well, you know they were going to wire-fake the check again to see if the money was there.

B: Well, no. You were going, ah, going to meet with Clark or something?

W: Oh, ya. Uh hum. I can't go into that on this phone.

B: Oh.

W: Okay?

B: Uh huh.

W: Uh huh. Wasn't good news. (ha ha) Wasn't bad but it was in fact it was probably a favor. Just tipped me off to . . . I'll let you know when I see you, okay?

B: Okay.

W: Okay. You gonna, you want me to make that call now (pause) to, ah, zoning, to Gonzalez?

HOUSE EXHIBIT 186B

EXHIBIT 186b HOUSE

B: I would just call and check and see, make sure _____ wasn't there.

W: You gonna do that?

B: Yeah. Yeah. I was gonna call you back.

W: Okay. Why don't ya do that?

B: Okay.

W: Are you at home?

B: Yeah.

W: Well, okay. I'll . . . I'll probably call you in a half hour. Okay?

B: Yeah. If, if you can, a get out to a -

W: Yeah.

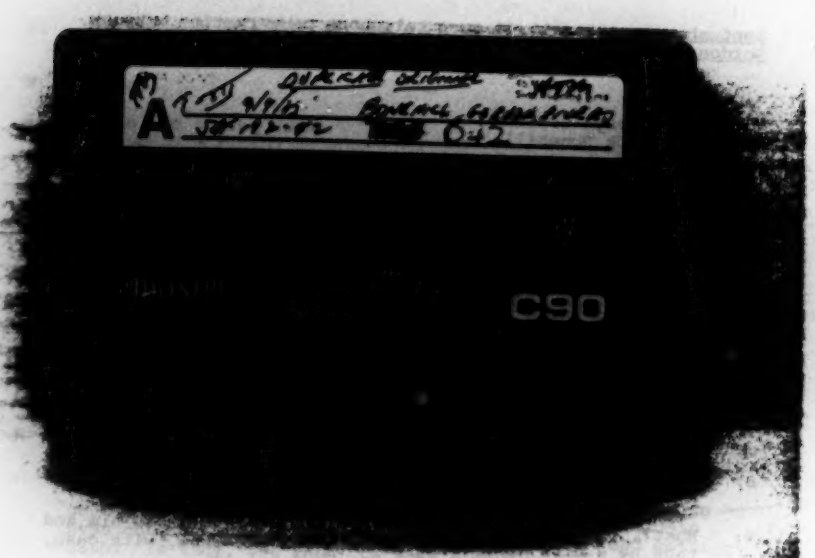
B: telephone.

W: Yeah. I know it.

B: Okay.

W: Okay, babe. Bye.

B: Bye.



United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 187A

September 9, 1985, 11:04 a.m. telephone conversation between Gordon and Bonehill.

W - "Waxy" Gordon
B - Dick Bonehill

W: Uh, the other thing I want to tell you on this phone. Ah . . . Steve called me over there to tell me that he had heard from Alcee Hastings, you know a Federal Judge. There's some rumor that I was involved with, uh, Clark, Ferguson and a councilman from Hialeah on some deal . . . and the only thing that I was doing out in Hialeah was for this guy, you know, out of Houston, on a new, uh, on a new item.

And I says, you know, he wanted 'certain things done in a manner, uh, you know, normal, influence and what have you. And whatever . . . But I can't see him being that and then giving me a bad check. You know what I'm saying? It doesn't, uh, you know if they're setting me up they're gonna make sure the funds are good. You know what I'm saying?

B: Well, he brings you back, uh, cash to make the check good, marked money.

W: What? You mean that me, to take the check back to him and then he'd give me another package, of you know, with cash, man?

B: Um-hum.

W: Well, I still haven't done anything illegal, you know. I haven't

B: He said that Clark was involved too?

W: Yeah. And he's not.

B: Alcee says -

W: Huh?

B: I have big ears.

W: No. He's not involved with it you know. He, uh, he knows me and he was good enough for him to get it. But I mean for a Federal Judge to get it, its got to be pretty high up in the Justice Department or someplace, right?

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 187B

EXHIBIT
187b
HOUSE

B: Yeah. No. They had that investigation going out in Hialeah.

W: I see.

B: About the zoning vote.

W: Oh, yeah. That's what I was involved in.

B: Huh?

W: Thats, a, you know, the the problem that I had out there was for zoning which I was trying to mitigate.

B: Well, they had a couple of councilmen and, uh, a couple of real estate people, and remember, there was a big deal in the paper about it uh about six (6) or seven (7) months ago?

W: I thought that pretty much quieted down?

B: Nah.

W: Well - I wonder why they put my name to it! I just uh, figured out that, uh, something was wrong here if the checks no good. But I figured with the che, the, you know, I couldn't understand a check being bad if they were trying to do business, you know, and see how I operated. I didn't even consider the idea, bringing back the check and getting cash. Is that, you know, in your expereince, is that a method of operation of them?

B: Mmmm-huh. Yeah.

W: Oh God. Ok. Uh, as far as, uh, oh, Did you call over there?

THE MIAMI HERALD
Miami, Florida
Page 1A
THURS. MARCH 27,
MIAMI

Metro mayor quizzed about information leak

By BRI[illegible] DUFFY
And JE[illegible] LEEN
Herald Staff Writers

Metro-Dade Mayor Steve Clark was asked by a federal grand jury last week if he leaked information to a friend about a secret wiretap, The Miami Herald has learned.

The grand jury is investigating possible corruption in Miami's building and zoning department. Investigators wanted to know how Clark learned of the wiretap at the home of Kevin Gordon Sr., sources familiar with the case said.

Gordon was the former chief of Miami's building code-enforcement department. He died last month of a heart attack. Gordon was cooperating with the FBI investigation, the sources said.

Clark refused to discuss the grand jury investigation.

"I have no comment on that," Clark said. "You obviously have some information. Why don't you go back to your source?"

Clark was subpoenaed by the grand jury to answer questions about a warning Gordon received about the wiretap. Sources said the warning was delivered by a person sent by Mayor Clark who didn't realize that Gordon was cooperating with the FBI in the investigation. That conversation was recorded by a secret listening

Please turn to CLARK / 24A

Dade mayor was quizzed on wiretap

CLARK / from 1A

device Gordon was wearing.

Gordon was warned not to use his telephone since it was tapped, sources said.

The person who brought the warning has not been identified, but he described himself in the conversation as an emissary of Clark's, the sources told The Herald.

U.S. District Judge Alcee L. Hastings authorized the wiretap at Gordon's home, according to the sources. Hastings, citing federal statutes, would not discuss the wiretap.

"Let me say, unequivocally, that that would be a serious violation of the law, and I would not discuss that with you or with anyone else," Hastings said Wednesday.

Clark was first asked about the grand jury investigation at a weekend press conference he called to deny unrelated allegations that he had associated with Hialeah crime figure Alberto San Pedro.

In a second interview following the press conference Saturday, the mayor cut short a reporter's questions about the grand jury investigation. "I simply [illegible] you

Steve Clark: 'I have no comment on that.'

Gordon took a job with the City of Miami in 1950 and rose through the ranks from the city's tax-collection department to the building and zoning department. He helped write portions of the South Florida Building Code and retired two years ago, after 25 years.

Gordon and Clark were close friends.

Clark served for five years as a member of Miami's planning and zoning board, from 1958 to 1963. He was elected city commissioner in 1963 and served, until 1967, when he was elected mayor of Miami. He served until November 1970, when he was elected mayor of Metro-Dade County.

After Gordon's retirement from the City of Miami, he worked as a code-enforcement officer for Surfrenchill friendly with

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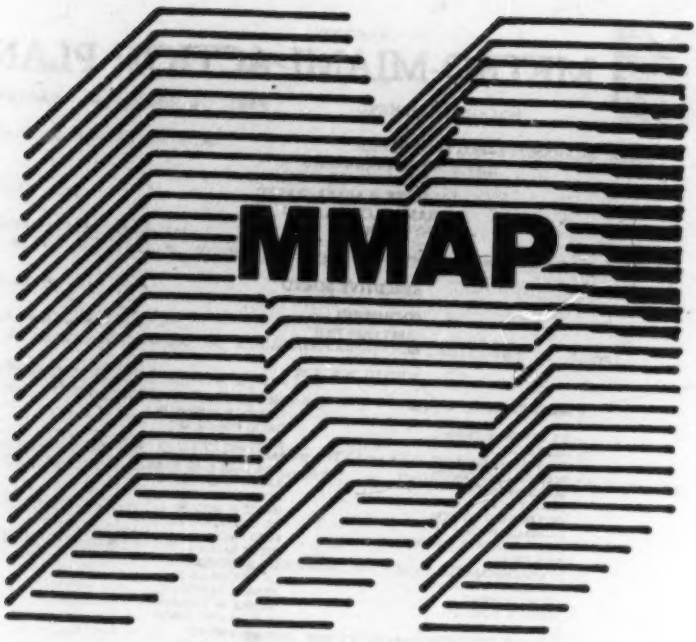

Metro-Miami Action Plan
Third Annual Conference

THEME:
"JOIN THE ACTION"

United States Senate
EVIDENTIARY HEARINGS 189
HOUSE MANAGERS' EXHIBIT

Hyatt Regency Hotel
Miami, Florida

September 6-7, 1985

EXHIBIT
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(305) 579-3618

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PROGRAM

FRIDAY, September 6, 1985 — **OPENING SESSION**

7:30 A.M.- 12:30 P.M. — **REGISTRATION-PROMENADE AREA TERRACE LEVEL**

8:30 A.M.

Master of Ceremony
M. R. Stierheim, County Manager - Metro-Dade County

Pledge

Invocation
Archbishop Edward A. McCarthy - Archdiocese of Miami

Welcome and Conference Overview
M. R. Stierheim, County Manager - Metro-Dade County

Introduction of Public/Private Officials
Leonard Britton, Superintendent - Dade County Public Schools

8:55 A.M.

Awards Presentation
Leslie Pantin, Jr. Vice President- AmeriInsurance Inc.

****AWARD RECIPIENTS****

Stephen P. Clark Mayor Metro-Dade County	Maurice Ferre Mayor City of Miami	Richard McEwen Retired Chairman Burdines

9:05 A.M.

Introduction of Morning Speaker
Jesse McCrary, Esq. - McCrary and Valentine

Keynote Speaker
Honorable Alcee Hastings, Federal Judge, U.S. District Court

9:35 A.M. - 10:30 A.M.

Talk Show Format/Interviews (WSMAP)

Dewey W. Knight, Jr., Deputy County Manager
Francena Thomas, Director of Minority Programs-FIU

Talk Show Interviewees

Dr. Larry Capp, Co-Chairperson
David Ziska, Co-Chairperson
Roberto "Bob" Ruiz, Co-Chairperson
Dr. Evalina Bestman, Education Action Chairperson
Ken Fordik, Employment Action Chairperson
Charlie Johnson, Housing and Neighborhood Action Chairperson
Dr. Roy Phillips, Economic Development Action Chairperson
John Smith, Esq., Federal/State Action Chairperson
Dr. Marzell Smith, Criminal Justice Sensitivity Action Chairperson

10:35 A.M.

Open Phones/Questions From Floor

10:55 A.M..

Closing-Directions to Workshops

11:00 A.M.

Workshop I	**Room Location**
Criminal Justice Sensitivity	UM 2 & 3
Economic Development	Jasmine
Education	University Auditorium
Employment	Hibiscus A
Federal/State Legislation	University Lecture Hall
Housing and Neighborhood	Hibiscus B

Workshop I will be a continuation of the question and answer period which was conducted during the talk show. The Recommended Actions considered to be implemented will also be discussed.

1:00 P.M. - 2:30 P.M. **Awards Luncheon**

Master of Ceremony
Larry Adams, Vice President - Florida Power and Light

Luncheon Prayer
Monsignor Bryan Walsh - Archdiocese of Miami

Lunch

Band
Miami Edison Senior High School Jazz Band

Presentation of Awards

Committee Chairpersons for each of MMAP's Action Committees will be presenting these awards.

Categories	**Award Recipient(s)**
Criminal Justice	Dade-Miami Criminal Justice Council
Economic Development	Talcolcy Economic Development Corporation
Education	Entrepreneurial Institute
Employment	Private Industry Council
Housing & Neighborhood	Universal Real Estate
Federal/State Legislation	City of Miami Dade County Public Schools Greater Miami Chamber of Commerce Metropolitan Dade County State of Florida Legislators

Introduction of Keynote Speaker
Senator Carrie Meek, District 36, Miami, Florida

Keynote Speaker
Dr. Mary Berry, Commissioner, U.S. Commission on Civil Rights

Acknowledgment of Conference Contributors
Larry Adams, Vice President - Florida Power and Light

2:30 - 4:00 P.M.

Workshop II will be a continuation of the discussion regarding implemented Recommended Actions.

4:00 - 5:30 P.M.

Reception

Gary Ward Jazz Group

****

SATURDAY, September 7, 1985 **GENERAL SESSION**

8:30 A.M.

Master of Ceremony
Sergio Pereira, City Manager - City of Miami

Pledge

Invocation
Rev. Winston Rudolph - Mt. Zion Baptist Church

8:35 A.M.

Introduction of Keynote Speaker
Esse Silva, Host, Black Involvement-Channel 6

Keynote Speaker
Patricia Russell McCloud, Esq.- Russell-McCloud & Associates

9:15 A.M. - 10:35 A.M.

Announcement of Workshop Location and Task

Workshop III	**Room Location**
Criminal Justice Sensitivity	U.M. 4
Economic Development	Jasmine
Education	Ballroom
Employment	Hibiscus A
Federal/State Legislation	U.M. 5
Housing and Neighborhood	Hibiscus B

Workshop III will focus on Recommended Actions considered to be incomplete at this time.

10:40 A.M.

Conference Report
MMAP Action Committee Chairs

11:00 A.M.

Evaluation Forms Completed

Saturday Cont'd

11:10 A.M.

Collection of Evaluation Forms

11:15 A.M.

Acknowledgment of MMAP Board

11:30 A.M.

Closing Remarks
Stephen P. Clark, Mayor - Metro-Dade County

Benediction
Rev. Winston Rudolph - Mt. Zion Baptist Church

12:00 Noon

Press Briefing

ALCEE LAMAR HASTINGS

FEDERAL JUDGE

Judge Alcee Lamar Hastings was born in Altamonte Springs, Florida, September 5, 1936; graduated from Fisk University, Nashville, Tennessee with a Bachelor of Arts Degree in 1958; attended Howard University's School of Law, Washington, D.C., from 1958 to 1960; received his Juris Doctor Degree in 1963 from Florida A & M University's College of Law, Tallahassee, Florida. He practiced law in Fort Lauderdale, Florida from 1964 to 1977; appointed as a Broward County Circuit Court Judge in 1977 by Governor Reubin Askew; appointed in 1979, by President Carter, as a United States District Judge for the Southern District of Florida.

Judge Hastings' professional organizations included the United States District Judges Council, American Bar Association, Florida Bar Association, Broward County Bar Association, National Bar Association, Dade County Trial Lawyers Association, National Association of Black Narcotics Agents, Conference of Black Lawyers, Smithsonian Association; Kappa Alpha Psi Fraternity.

Judge Hastings has received numerous citations for his work in law and in human relations.

DR. MARY FRANCES BERRY

U.S. COMMISSION ON CIVIL RIGHTS

Dr. Berry is Professor of History and Law and a Senior Fellow in the Institute for the Study of Educational Policy at Howard University in Washington, D.C. She also served as a Commissioner on the U.S. Commission on Civil Rights, and was Vice-Chair from 1980-1982. She served as U.S. Assistant Secretary for Education in the Department of Health, Education, and Welfare.

Dr. Berry has held faculty appointments at six major universities. In addition to earned doctorate and Juris doctorate degrees, she has received more than a dozen honorary degrees in recognition of her outstanding work. Dr. Berry is well published in the areas of constitutional history and civil rights, and is a powerful voice regarding civil rights in America.

PATRICIA A. RUSSELL, ESQ.

PATRICIA A. RUSSELL CONSULTANTS

Patricia A. Russell is widely known as a stimulating, substantive, and thought-provoking public speaker. An attorney at law, she is president of Patricia A. Russell Consultants.

Ms. Russell is the former Chief of the Complaints Branch, Mass Media Bureau, Federal Communications Commission. She graduated from the Howard University School of Law and Kentucky State University and also studied law at Harvard University.

She has received numerous awards and honors, including the Honorary Doctorate of Law Degree from historic Bethune-Cookman College and a 1981 tribute from the NAACP Legal Defense and Education Fund. Rep. Louis Stokes (D-Ohio) entered her speech "If Not You-Who? If Not Now-When? in the Congressional Record in 1981, and she also has been honored with a proclamation from Rep. Harold Ford (D-Tenessee).

Ms. Russell is a member of the U.S. Supreme Court, District of Columbia, and Indiana Bar Associations. She is the immediate past national parliamentarian of the Alpha Kappa Alpha Sorority, Inc., a member of the Links, Inc. San Antonio Chapter; and a honorary member of the National Association of Business and Professional Women, National Association for the Advancement of Colored People (NAACP).

CONTRIBUTORS TO THE CONFERENCE

On behalf of the communities and people being served, the Metro-Miami Action Plan wishes to gratefully acknowledge the following organizations for their support in putting together this conference.

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Adolph Coors Company

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-also-
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Florida Memorial College

Dr. Len Williams
Miami Edison Comm. School

R. Paul Young
Conference & Conventions
James L. Knight Center

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 193A

Dec. 1st, 1985

ERR
JMCamp.

DEAR ERIC & JOHN,
ENCLOSED IS A COPY OF THE CONVERSATION BETWEEN KEVIN GORDON AND PETE FERGUSON ON 12/18/85.
I ALSO AM ENCLOSING A ROUGH TRANSCRIPT OF THE MOST PERTINENT PART OF THE CONVERSATION. THE TAPE IS SET AT THE STOP OF WHERE THE TRANSCRIPT BEINGS. IT IS ON SIDE B OF THE TAPE.
WHEN FERGUSON GETS TO THE REAL GOOD PARTS HIS VOICE GETS VERY LOW AND IT'S HARD TO UNDERSTAND.
I WILL KEEP YOU BOTH INFORMED.
HAVE A MERRY CHRISTMAS AND A HAPPY NEW YEAR.

Gary Mitchell

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EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 193B

EXHIBIT
1936
HOUSE

REVEIW OF NAGRA RECORDING BETWEEN KEVIN "WAXY" GORDON
AND PETE FERGUSON ON WEDNESDAY 12/18/85
IN THE RESTROOM OF MIAMI OUTBOARD CLUB

K.G. Hey Pete
P.F. I don't believe that fuckin guy!
K.G. I can't understand him
P.F. You know I never trusted that fuckin guy from the start, and I'm going to tell you why.
K.G. Yeah.
P.F. The guy with the ....(U.I.) Clark said to me, he says no I think that guy is a fuckin load of trouble. Remember when he asks you one time.
K.G. Yeah.
P.F. You know.. (U.I.) I could never figure out what he did. Because he was always here and whenever he was from he was very vague. Like he was from Alabama or some fuckin thing. And then the guy said Chicago. He was from Chicago. Did you ever hear what he was talking at the bar?
K.G. I never paid that much attention.
P.F. He sounded like he was a DEA Agent.
K.G. What
P.F. (U.I.)
K.G. What the Hell would he be hanging around me for.
P.F. How in the Hell else could he get in here. You see what I mean.. That's his main goal you she what I mean.
K.G. I see!
P.F. (U.I.) You know let's face it, if somebody is introduced by you that's pretty good fuckin entree, you know what I mean..
K.G. Ah, let me see how I met him. He came well introduced to me from an old friend out of New York. And ah, I knew him, I was having drinks with him up around the Tin Lizzie and that area for a humber of months. And he had this friend from Houston; who I don't know if you seen this thing on T.V. It was on USA Today also in the newspaper--it was called Photon.. It's one of those electronic type of things you--what the hell is that?
P.F. My (U.I.)
K.G. Well anyways, that's what he was looking for a site down here and what have you. And the guy, I just did it on a flat fee as a
P.F. Did you get paid?
K.G. No, I didn't get paid, because all of sudden he got all uptight and he walked away from the deal and
P.F. Let me ask you something. I don't think the cocksucker. I don't understand the guy's story. But you just stop and think if I could hear mind.
K.G. Okay, alright.
P.F. If I could hear mine. You try to put together his conversation, okay. Now he's from Alabama, and he is talking with a guy in here you know. He use to be a pretty wacko guy.
K.G. Yeah?

P.F. And ah, In Alabama, he goes here, he goes there and the next fuckin thing you know in fuckin Texas, than he's in fuckin ah, Tennessee, then he is in fuckin New York. You know I mean, in other words, the guy never had a story, you know.

K.G. Uh-hum.

P.G Uh-hum that's good. Because it doesn't ...(U.I.) But you ask him something the goofy fuckin question, you know to the Mayor ....(U.I.) DEA Agent. (U.I.) xxx He talks to the two of us you leave. He buys the two of us a drink and talk to us.

K.G. Do you think that could have been the hit on me with the other guy-Hastings.

P.F. That's the whole thing right there.

K.G. Holy Christ. That could of been it.

P.F. Could of bean it.

K.G. Oh, my God

P.F. Ah, see what I mean

K.G. Yeah

P.F. This fuckin guy is really ...(U.I.)

UNK. MALE Hey what's going on
(U.I.)

UNK. MALE Hey there you go

K.G. Okay, oh by the way. Yeah, yeah, I"'m going to run now. I got to pick up my daughter.. Say hello to Steve for me and thank him for the information.

P.F. Yeah

K.G. Thank God, Huh.

P.F. That what were thinking that could only go back into this now you stop and think.

K.G. Now it comes together, yeah okay Pete.

P.F. See you Pal

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 194A

January 17, 1986 conversation between Kevin "Waxy" Gordon, Steve Clark, and Pete Ferguson.

KG - Kevin Gordon
SC - Steve Clark
PF - Pete Ferguson
UI - Unintelligible
MAC - Mc Chesney

KG: I haven't been down here, the last time I was down here, of course, I was lucky enough to run into PETE. You know, did PETE tell you our conversation in the bathroom?

SC: About

KG: About that JOHNNY RIVERO. You know, you know I, ah, it's about three weeks ago, fours weeks ago, and I was, JOHNNY had come down here and I think caused a problem.

SC: Oh, yeah this JOHNNY that sat over here, the pool shooter.

KG: Yeah! The pool shooter, yeah you know

SC: Yeah, who in the fuck is he?

KG: Well I wasn't sure you know, I, uh,

SC: Look you open your mouth look what happened

KG: Oh, MC CHESNEY, I thought it was RIVERO. Well anyway when this thing happened with HASTINGS and everything, I got up in arms naturally.

SC: Naturally

KG: So and he told me, come to me if you got anything going

SC: Hey WAXY's, WAXY's here

KG: Hey, my man how are you?

MAC: Nice to see you, Happy New Year.

KG: Happy New Year to you MAC, Jesus.

MAC: How are you?

KG: Good who are you doing?

EXHIBIT 1946 HOUSE

MAC: I'm alright.

SC: Say MAC how are you buddy?

MAC: Real fine very fine

SC: Very good

KG: So the bottom line is ah, I ran into STU MORRISON and PETE there I, you know and said what the hell went on with JOHN because he got all upset and he left. And then he called me back I said and I didn't respond and he kept saying go, and do this in Hialeah. And I said wait a minute what are you talking about? I said, I'm a site selector, I'm getting a $25,000 commission for finding you a site. And you're suppose to deal with the guy out of Dallas, Houston, not Dallas. Said o'kay, alright, alright. You know I talked with PETE and PETE was a little upset with the guy because apparently when I'm not here, he was talki.. to people and saying (UI).

SC: I don't know, who the, what happened to him, where did he go?

KG: Ah, he went back to Mississippi, Chicago, Alabama or wherever he's from, you know.

SC: I didn't see -

KG: I believe he went back to Houston, but I'm not sure.

SC: But how, how would HASTINGS ever learn this shit?

KG: I have no idea, you know, but I don't think HASTINGS knew any thing about, you know, he bumped into you, he bumped into you and said something about me. So that makes me feel sorta -

SC: Here, here's what happened. We're down at the HYATT REGENCY and he is the guest speaker. He rips the hair on all the fucking judges ass, but then he's my friend though.

KG: Yeah, yeah, you told me.

SC: And everybody's saying "hello judge" and he comes and says STEVIE I want to tell you something....don't get near KEVIN oh shit, you know christ almighty, your last name.

KG: GORDON

SC: I don't know how the fuck that (UI) but KEVIN GORDON is involved in some zoning in Hialeah and don't, I'm just telling you now, don't no more, I'm just walkin' away from you. But don't get near it, because he's got problems and that's, I came back and told you immediately.

KG: That's right and that was the end of that. But then, I well, got, uh

SC: How in the hell would he know that?

KG: I have no idea

SC: Did you deal with any spooks on that thing?

KG: Never, I never dealt, you know, what I did, here's what I did. I made one call....

SC: To a commissioner?

KG: To a commissioner out there. To what? Give me a half dozen of those things will ya (laugh) no.

SC: They're great though. They're great. MAC loves them, they're great, that potassium is what you need buddy.

KG: Yeah

SC: When you got blood pressure problems. Cause you, you take a diaretic? For your problem?

KG: Yeah. Yeah. I take a diaretic.

SC: That's what you need right there. Do you take potassium?

KG: No, he doesn't prescribe anything for me.

SC: Well, if you take this you'll feel, look how much better he looks.

MAC: Sure, one bite.

KG: Course, my, my doctor just had a stroke so I better not follow him anymore (laugh)

PETE Ola, Ola

KG: I, I walked away from the guy.

SC: How, how in the fuck would, would the judge know about this. See and I was, I was . . .

KG: It's, it's got to be something plant you know!

SC: JOHNNY might have been the plant.

KG: Well, that's what it comes out to be.

SC: And I don't realise it because this is on Federal Bureau good, good -

PF: I know.

SC: That's o'kay, that's nothing wrong with the guy. He says, no talk, no more just walk away and walk I walked away. But he's my friend, he's a fuckin Federal judge, man.

KG: Right now my friend, he doesn't come up for any election anymore.

SC: Ah, no he's a good guy.

KG: Ah, but if he were I would be out ah, with the marchers.

SC: Yeah that's right.

KG: He did me a hell of a good -, so I'd lose money on the deal but I don't know where I'm going with the deal anyway. You know when I called you one time and said I think it's clean and you said there's nothing wrong with cleanliness, right?

SC: That's right.

KG: But, then I'm saying well -

UM: Order, order (UI) man.

KG: Another one? Another one?

UM: You get sour cream in that stuff or what?

UM: Sour cream, yeah.

UM: Jesus Christ.

UM: Alright. Got away with it.

KG: Anyway, I walk away from the whole thing and they try to put, put one of these Phonton things up in North Miami Beach, that's the deal I was working on.

SC: Yeah.

KG: Photon.

KG: And they had to have a rezoning hearing you know. And so I don't know what happened up there.

SC: You went home, went to sleep, got away from it.

KG: I left $25,000 in somebody's car. That's all I know (laugh).

SC: I don't give a shit buddy. I'm telling you what I heard and I didn't know anything about nothing.

KG: I appreciate (laughing) you know and that's the end of the conversation.

SC: When you run into, when you run into. . . .

KG: End of the conversation.

SC: In a bear's ass you get rid rid of it, right! Keep walking. Old boy says, tell you a story, walk it.